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# THE PHYSIOLOGY OF POLITICS

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Our organization is known as the Political Science Association, and yet the subject to which it is devoted lacks the first essential of a modern science—a nomenclature incomprehensible to educated men. Other sciences employ terms of art which are exact because barbarous, that is remote from common usage, and therefore devoid of the connotations which give to language its richness and at the same time an absence of precision. But the want of an exact terminology is not the only defect of our subject. It suffers also from imperfect development of the means of self-expansion. The natural sciences grow by segmentation, each division, like the severed fragments of an earthworm, having a vitality of its own. Thus in zoölogy and botany we hear of cytology, histology, morphology and physiology, expressions which correspond, perhaps, with aspects of our own ancient, yet infantile, branch of learning.

The first of the divisions already mentioned, cytology, deals with the cell as the unit of structure, and bears thus an analogy to the study of man as an individual, a social being by nature, no doubt, but considered from this point of view as a separate

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personality; to some extent at least as an end in himself. It corresponds rather to psychology than politics. Histology, if I am correctly informed, is concerned with the tissues made by the organic connection of many cells, the substances of which the body is formed, and by means of which its manifold operations are conducted. We may fancy that it has its counterpart in sociology, that science of which the late Gabriel Tarde remarked that it was named before its birth, although the time had come when it ought to be born. Morphology deals with the structure of an animal or plant as a whole, with the organs by which it lives or moves, and the forms which they assume in different species. It corresponds in our subject to a study of the structure of the state or municipality; the constitution of the goverment; the executive, legislative and judicial organs; and the diverse forms which they assume in various countries. It is the least difficult portion of political science, because the facts can be ascertained and studied with comparative ease and accuracy. For the most part they are contained in authoritative documents, and in any case they are fairly obvious. They force themselves upon our notice, and compel attention. This branch of our science has, indeed, received far more consideration than any other; but although it must be the basis for all knowledge of government, and must be mastered before we can proceed farther, it gives us after all only the framework of the subject.

Finally, physiology treats of the functions of the various organs. If the term be applied in politics we must bear in mind that it means not the functions which the organs are intended, or supposed, to perform, but those which they actually do perform; and unfortunately for the patient inquirer that is by no means the same thing. Moreover we must include pathology, or the study of disease as well as of health, for governments are rarely, if ever, wholly sound. Now the object of this address is to urge a more thorough investigation of the physiology of politics, by pointing out its necessity at the present day, some of the methods that may be employed, and the results that can be obtained.

To advocate in this twentieth century the importance of studying the actual working of government may seem like watering

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a garden in the midst of rain. But that this is not the case everyone must be aware who is familiar with current political literature on such living topics as proportional representation, the referendum and initiative, and the reform of municipal government. These discussions are for the most part conducted in the air. They are theoretical, treating mainly of what ought to happen, rather than what actually occurs; and even when they condescend to deal with facts it is usually on a limited scale with very superficial attention to the conditions under which the facts took place. The waste of precious efforts at reform, from a failure to grasp the actual forces at work, is indeed one of the melancholy chapters in our history. Earnest men, overflowing with public spirit, sometimes remind one of a woodpecker in Cambridge, some years ago, who strove loudly for an entire forenoon to drill a hole in a copper gutter. Reformers are prone to imagine that a new device will work as they intend it to work, and are disappointed that it does not do so. They are far too apt to assume that if their panacea be adopted mankind will become regenerate; whereas the only fair supposition is that men will remain under any system essentially what they are—a few good, a few bad, and the mass indifferent to matters that do not touch their personal interests. All reform movements need for criticism a devil's advocate, who is not, however, believed to be in league with the devil; or rather they need advice from people who are really familiar with the actual working of many political institutions. In short, they need men with a scientific knowledge of the physiology of politics.

We are all familiar with cases where forms of government have been imitated without the corresponding functions; where institutions have been copied under conditions in which they could not produce the same effects as at home. A well-known example of this is the attempt of other European countries to adopt the English parliamentary system. The system has yielded in new lands results of varying merit; but it has not worked as it does in England, because the environment which determined the real functions of the organs of government could not be reproduced. Yet this was not at first perceived; and although that

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particular fact has since become so well known as to be a commonplace, there is no good reason to assume that we have outgrown the blindness of those days. We are ever hearing men extol the virtues of some foreign political contrivance, without observing, often without stopping to inquire, what its actual mode of operation may be, or whether the functions of the organs at work may not in reality be quite different from what they appear. We hear much of the excellence of municipal government abroad, but how much have we heard about the real causes of that excellence,—how far they are due to the municipal bodies created by statute, and how far to agencies less visible, but in fact more potent? Professor Munro has recently told us a good deal on that subject, and it is one of great importance.

One useful test of the success of investigators in any branch of learning is the extent to which people engaged in the practice of the subject turn to them for advice. If men employed in the construction of engineering works paid little heed to the discoveries and opinions of professors of applied science, or did not care to employ their pupils, would it not prove that those professors were off the track, or that their science was still in its infancy? Conversely, does not the rapidly growing respect of the public for bacterial analysis show that medicine has reached a far higher degree of maturity than ever before? But how much do statesmen turn to professors of political science for guidance? Surely, students of politics do not lead public thought as much as they ought to do; and is not this largely because they are regarded as theoretical; because, in other words, they do not study enough the actual working of government?

The prejudice is still so strong that men in active public life tend to disregard suggestions from academic sources even when based upon a study of results. Members of the Senate committee that framed the act for the government of Porto Rico were warned that the system they proposed to set up had led to sharp dissensions between the elected legislature and the appointed governor, both in the American colonies of Great Britain before the Revolution, and later in Canada, Jamaica and Malta. They were informed that the system had been almost entirely abandoned

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by the British colonial office as unsatisfactory, and that in its stead either responsible self-government had been granted, or the power of the elected members of the legislature had been curtailed. Nevertheless, the system was adopted by congress. It produced the results which English experience had foreshadowed, until at last conditions became so acute that last summer the Porto Rican act was amended by conferring upon the governor authority, in case of a deadlock, to renew the appropriations of the preceding year without the consent of the assembly.

The subject of direct primaries is a burning one at the present moment, and one in which the practical operation of a principle is of vital consequence. Yet when legislators inquire concerning it our political students, while fertile with suggestion about the way it ought to work, are almost dumb about its effect in practice. Professor Merriam has recently written an excellent book upon the movement,[1] marked by great knowledge of its history, and, what is far more rare, by admirable impartiality; but of one hundred and seventy-eight pages of text only sixteen are devoted to actual results. The fact is that opinion on the question of the direct primary is in a strange state of chaos. The campaign for its adoption in New York is in full cry, at the very time that it has been abolished in Boston as a failure. In that city a popular vote was held last November to determine whether the citizens preferred to return to the old nominating convention, or to adopt nomination by petition alone without party designations or the official ballot at the election, and the latter was carried by a small majority. The alternative was put in this form because substantially everyone, including the leading politicians of both parties and reformers, agreed that either system was better than the method of direct primaries which has been tried for several years. Can there be any doubt that we need to know more than we do of the actual results of that method of nomination, and how far they vary under different conditions, in order that we may learn, not from theoretical argument, but from careful observation, to what class of communities it can be wisely applied? The labor

[1] "Primary Elections," Prof. C. Edward Merriam, University of Chicago Press, 1908.

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of gleaning such information is incumbent upon students of political science, and until we perform duties of this kind with scientific thoroughness we cannot expect our profession to gain the ears of public men.

Surely, enough has been said to point out the need at the present day of a greater study of the physiology of politics. If scientific methods are to have any considerable influence on public affairs in this country: if American scholarship is to achieve any marked advance in political science; it would seem to be essential that our Association should encourage more extensive research in political phenomena from this point of view.

Let us not imagine that such research is easy. On the contrary, the difficulty of ascertaining the truth renders the physiology of politics more laborious than any other branch of our subject. It requires the collection of a vast mass of facts, much of which will prove to be redundant or unimportant. It requires the balancing of much evidence, sometimes given by people only dimly aware of the motives of their own conduct, or, indeed, of what their conduct really is. Men in public life are often far less free to act as they please than they themselves suppose, and their generalizations from their experience, though perfectly honest, are often misleading. Therefore it is needful to distinguish carefully between their opinions and their statements of fact, and to observe how far these last come within their own personal knowledge. Accurate induction is as rare in public life as elsewhere.

Another thing for which one must be on one's guard is the existence of shams. Someone will hereafter write a most interesting book on the utility of shams in government. They perform a function in politics not unlike that of fictions in law. They are a means whereby poiltical institutions grow, surmounting rigid obstacles which they cannot destroy. Everyone knows that the selection of the president of the United States by the electoral college is a sham, and it took very little time to find that out. But it took a long time to discover that the cabinet in England, by a silent extension of its functions, persisted in creating shams, until the literary theory of the constitution, as it has been called,

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ceased to present anything like a true picture of the British government. No doubt we are equally blind to what is going on under our eyes today. We are liable to be misled by the fact that structure is written and evident, while a function which has not been studied and described can be found in no book, and is in its nature intangible. We are in danger of being misled also by the fact that most shams are to some extent deliberately maintained. It is often for the interest of the persons directly concerned to conceal the sham, and not seldom they deceive themselves into believing things more real than they are. Still, with keen insight, no great amount of probing is required in any government to find shams, for they are prevalent everywhere. But after we have found them we must solve the far more difficult problem of determining the exact degree of unreality.

In a study of the physiology of politics we are limited by the impossibility of experiment. Politics is an observational, not an experimental, science; and hence the greater need of careful observation of those phenomena which we can use. Now accurate and penetrating observation is not a common quality, and one is sometimes grieved by its absence in a political writer. It can, of course, be very largely trained, but is it not true that we pay far less attention to it than we ought in the instruction of students in our universities? We lecture to them, and make them write theses, compiled in most cases wholly from books or other documentary material; but we do not teach them enough to use their own eyes on the currents of public life that are continually ebbing and flowing around them.

Moreover, we are apt to err in regard to the things to be observed. We are inclined to regard a library as the laboratory of political science, the storehouse of original sources, the collection of ultimate material. To some extent this is true. The debates of legislative bodies, the votes cast, the statutes enacted, the platforms of political parties, the results of elections, and many other things, are in certain aspects primary phenomena. But for most purposes books are no more original sources for the physiology of politics than they are for geology or astronomy. The main laboratory for the actual working of political institutions is not

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a library, but the outside world of public life. It is there that the phenomena must be sought. It is there that they must be observed at first hand. It is by studying them there that the greatest contributions to the science may be expected.

The difficulty would seem to be based upon an unconscious confusion in regard to the nature of authority; for there is still a strong tendency in our subject to rely upon the authority of writers instead of investigating the facts themselves. The habit still prevails of referring to, and often of accepting as final, everything printed in a book, and especially in a monograph, without a careful examination of the sources from which the writer derived his conclusions, and the accuracy or sound judgment shown in his observation. We are too prone to regard a bibliography as a complete catalogue of sources, and to judge a writer's knowledge by the copiousness of his footnotes. Too often statements are repeated in book after book without any serious attempt at verification. All of us can probably recall examples of this kind. One that comes to my mind is that of the liberal party organisation in England, which, under the name of the caucus, was long a terror to conservative people. Descriptions of its dire control of political action were copied by one writer from another, without observing that what was portrayed by the earlier as a menace was stated by the latter as a fact, or that the caucus itself had in reality developed into a far less formidable agency than its friends had hoped or its opponents had feared. Too much political writing, that passes for original work, is based, like Tomlinson's confession of sin, not on personal knowledge, but on what has been read in a book.

Granting that the main laboratory for the study of the actual working of politics is the real world of public life, we are only at the threshold of our problem; for the observation of political phenomena is no simple matter. Every action is the resultant of many forces which cannot be isolated, and hence is capable of being explained in different ways. In seeking to interpret complex affairs a great deal will depend on the point of view from which we approach them. Many years ago two young friends of mine made at the same time, but quite independently, an exam-

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ination of the speed of railroad trains in various countries. Both sought to account for the fact, strongly marked in those days, that the maximum speed in England was far greater than in America. One of them, college bred, attributed the result to the more democratic character of our people; while the other, trained in a school of engineering, ascribed it to the American practice of using coupled driving wheels. It is of no consequence for our purpose here that they were both wrong; that without abandoning either democratic tendencies or coupled driving wheels the speed of our best trains is now close to the maximum in England. The important thing for us is that each of these men observed what his previous training had prepared him to see. One of them was impressed by the social, the other by the mechanical, aspects of the problem.

The principle illustrated by this case is of universal application, and is particularly true of a matter so intricate as political observation. We see what we look for, and it is therefore essential that we should look for everything with very open eyes. In short, the observer of political phenomena requires a wide knowledge of a multitude of diverse conditions, and, what is more important still, a sympathetic imagination. He must be able to put himself in the place of all sorts and conditions of men, thinking as they do, and thus appreciating the reasons for their conduct. Above all he must instinctively conceive himself in the position of a man in public life, and feel the motives that press upon him from all sides. Only in that way wll he learn the hidden springs of action, and have a keen perception of political forces, or, indeed, of the facts themselves which appear so plain when they have once been seen.

But imagination is stimulated by experience, and hence a student of politics derives incalculable benefit from a personal familiarity with public life, even on a small scale. He will learn much from service in a city council, a school committee, a minor office or a party organization, and it is a happy augury for our science that so many of its younger votaries are taking an active part in public affairs of some kind. There is no such chastening for crude conceptions as rough contact with the world, and any

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attempt to work in a complicated organization teaches why simple characters may follow tortuous paths.

Nor is it in public bodies alone that experience may be gained. A great deal may be learned from a candid observation of clubs, associations, organizations and institutions of all kinds, their mode of operation and the forces that control them. Many good people stand aghast at methods in public life which they commonly employ themselves in more private affairs. Of course I do not mean methods that are in any way corrupt; but they rail at a political machine of any kind, when they are in fact conducting with great complacency a little machine of their own in some society. They regard as abnormal in politics a mode of conducting business which they adopt naturally in carrying on a club, or even a reform movement; and therefore they fail to distinguish the things that are inevitable and legitimate in party organization, from those which are reprehensible and should be opposed by all good citizens. Everyone in this land of ours belongs to associations, public, commercial, social or philanthropic, and if he will submit his own conduct, and that of his colleagues, to a searching analysis he will acquire no little knowledge about man as a political animal. Sometimes politics are not as active or heated in a state central committee as in a sewing-circle.

Besides the direct observation of political phenomena which calls the philosopher out of his study to mix with men, there is the use of statistics, proverbially deceptive but ever more needed in political research. Statistics, like veal pies, are good if you know the person that made them, and are sure of the ingredients. By themselves they are strangely likely to mislead, because unless the subject is understood in all its bearings some element can easily be left out of account which wholly falsifies the result. The late Francis A. Walker, prince of statisticians, found that in collecting figures for the census, the inmates of an inebriate asylum had been reported as all temperate; a fact no doubt true at the moment, but calculated to give an incorrect impression of the degree of sobriety in the state. The more complex the phenomena to be studied, the greater the care that must be used in accepting the conclusions given by statistics; and yet in political

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science they are invaluable, both for discovering new facts and for verifying facts obtained by other means. For this purpose we do not, I think, resort to them enough. We ought to collect them much more freely than we do, and the results obtained from them, and from observation, ought to be used constantly to check one another. The labor of compiling them is no doubt very great, and much of it is of a mechanical character that consumes a distressing amount of time. In this matter our colleagues in the natural sciences have a great advantage over us, for they have well-equipped laboratories with their corps of trained assistants, while the student of politics usually works alone or with little help. Much of the labor involved could be done by any intelligent person with a little training, and I have often thought how much might be achieved even by a small laboratory of political science well organized for a definite branch of research. The bureau of legislation at Madison is of that kind; and the endowment of such a laboratory might open new fields of political knowledge and confer a lasting benefit upon the country.

There are many things we ought to know about the present working of political institutions of which at present we are far too ignorant. To mention only matters that affect our own government; we ought to know far better than we do in what places, and under what conditions political bosses have existed in the United States, and we ought to understand more fully the functions that they actually perform. People—nay students of political science—often talk as if bosses flourished everywhere from the Atlantic to the Pacific; and yet anyone who stops a moment to reflect knows perfectly well that in the greater part of the country there has never been a state boss, while in the places where he has thrived he has usually been intermittent, and in only a few states has he been permanent. Which are these places, and what are the local conditions, that have proved favorable to his rule, and why has there never been a national boss? Again, people speak as if the boss regulated everything with an autocratic sway, prescribing how the party should act on every question that comes before the state legislature, and herding all the members of the party there under his con-

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trol. But if so every measure in the legislature would be carried or defeated by a solid vote of the party; whereas in fact statistics prove that strict party votes are uncommon even in most states that enjoy a boss. What then is the exact function of the boss? With what matters does he deal, and how great is his control over the members of the party in regard to them? If we knew these things accurately we should be in a much better position to contrive a remedy.

Connected therewith is the extent of party voting in different public bodies in this country and abroad. If we knew that, we should be able to form a sound opinion on the normal and the unhealthy manifestations of party and the institutions that tend to inflame, or check, its excesses.

To take another matter: What are the classes of voters who change sides, or abstain from voting, at different elections, and in what way is this affected by the Australian ballot, and by direct primaries or other methods of nomination? That is certainly not an unimportant problem, and its solution might well lead to intelligent and effective reforms. It could, no doubt, be answered by a minute comparison of the results of elections in a large number of voting precincts, coupled with a careful study of local conditions and information obtained from men active in ward politics. A laboratory such as I have suggested would make the work not only possible, but by no means a very long task.

Of a kindred nature is the question of the actual result of popular voting, upon constitutional amendments, upon laws under the referendum and initiative, upon municipal charters and other questions? What has been the size of the vote cast; what conditions have affected the result: how far have the people shown themselves in accord with their representatives, and how far constant in their opinions? On this subject enough careful work has been done to teach us something, but our knowledge is by no means so definite as it ought to be.

Take the subject of public hearings by legislative committees, which has received much less attention than it deserves. It is wholly an American device; but little or nothing has been written

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about its history, and scarcely anything about its actual operation. In Massachusetts, where it is used very freely, it has had most beneficial results; but Professor Reinsch in his admirable work on American legislatures, tells us that it has not developed great importance elsewhere. Yet in form it exists throughout the country, and is certainly used to some extent. Congressional committees listen to public officers on matters affecting their departments, and give public hearings on measures of general interest like the tariff; while a similar practice is far from uncommon in the state legislatures. An exhaustive inquiry into open hearings by public bodies in the United States would well repay the labor involved, and would, I am convinced, throw a good deal of unexpected light on a number of obscure problems in our political system.

Finally, it would be very instructive to know the customary length of service of public officers in different parts of the country. To illustrate what I mean, the governor of Massachusetts is elected for a single year, but it has become the habit for the republican party, which is normally dominant in the commonwealth, to renominate a victorious candidate, and give him three successive terms. The chief administrative officers of that state, such as the secretary of state, treasurer and attorney general, are also elected annually; but as a rule the incumbents are renominated indefinitely, and in fact they are always reëlected even when a democratic governor is chosen. How far does any similar custom prevail elsewhere? To what extent also are appointed officers retained in their posts in our national, state and municipal governments? There is a common impression that a clean sweep is made at every change of administration, at least when it involves a change of party; but there are exceptions, and it would be valuable to know where and why they exist, and what effect they have had. How far is there an approach to a permanent body of high-grade, expert officials anywhere in the country, and has it shown a tendency to increase or diminish during the last thirty years?

Anyone can add to this list many other matters, but those already mentioned are surely enough to show that, in spite of the

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incomparable work of Mr. Bryce, and the labors of other scholars, the field for research in the actual working of our government is still immense, and that there is no limit to the scientific and practical value of the harvests to be reaped.

Moreover, the grain in that field is now ripe for reaping. When the democratic wave first swept over the western world thought upon the problems of popular government was of necessity in the main speculative. Nearly a hundred years ago de Tocqueville had indeed the wisdom to seek to discover the first tendencies of democracy by studying them in the country where it had longest endured. But now popular government has certainly lasted long enough to produce many of its normal results, and a vast deal of information may be obtained by observing them with scientific thoroughness and accuracy. That method appears to be the most promising for an advance in political thought. It is more important at the present day than abstract speculation, which has for some time proved singularly barren. We may expect progress in political thought when we have compiled, arranged and classified our data, and this would seem to be the most pressing task before the members of our profession.

Let me say a closing word about the attitude of the student of politics. The ultimate object of political science is moral, that is the improvement of government among men. But the investigator must study it as a science, as a series of phenomena of which he is seeking to discover the causes and effects. He must not set out with a prejudice for or against particular institutions, or, indeed, regard politics from an immediate moral standpoint; for if he does he will almost inevitably be subject to a bias likely to vitiate his observation. It may seem strange to assert that in order to compass an end we must lose sight of it, and yet the human mind is so limited that this is often true. So long as natural phenomena were studied for the purpose of showing their beneficence to man, science made little progress compared with that achieved since they have been examined in a purely objective way; and the result in learning to use the forces of nature to promote human welfare was far less than it has been in these later days. If our pursuit is worthy of the name

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of science, the primary object of the student ought to be the search for truth; and not until he has found it by relentless and unbiased observation can he wisely discuss its application to practical affairs. Let no man grieve because the truth he reveals may not seem of direct utility. Truth always reaches its goal at last, although the world may not at once perceive its value. Still less let him fret that he cannot himself give effect to his ideas; that it is not his lot to wield the sickle in the ripened field. Bentham's influence on the course of English public life was not curtailed because he did not sit in parliament, nor was John Stuart Mills' increased thereby; and what was true of Bentham's deductive reasoning is equally true of inductive political science today. It is our province to discover the principles that govern the political relations of mankind, and to teach those principles to the men who will be in a position to give effect to them hereafter.

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# DIPLOMATIC AFFAIRS AND INTERNATIONAL LAW, 1909[1]

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The year 1909 was not characterized by great dramatic occurrences like the Boxer outbreak of 1900 or the war of 1904. Although its history abounded in most interesting situations, it was a period rather of peaceful development and readjustment than of marked advance along any particular lines. The general desire to maintain peaceful relations and to settle such differences as might still be outstanding between nations was evidenced by the large number of ceremonial visits from country to country—visits of monarchs and prime ministers, of commercial and literary deputations, and of distinguished private individuals. All the important European nations took part in this exchange of courtesies which gave occasion in each case to eloquent declarations of mutual friendship. In general, no special political importance could be attributed to such visits beyond the common desire of keeping relations in their normal, friendly condition. In certain cases, indeed, the attempt was made to attribute a special importance; as in the case of the visit of the Russian czar to Italy, which was interpreted in some quarters as an attempt to break up the Triple Alliance. Other meetings again were characterized by very unusual cordiality, such as that of the German emperor, and later of the German prime minister, with the emperor of Austria. Yet the unusually large number of such visits and the impartial manner in which they were distributed by the nations among their neighbors and associates deprived the individual visit of importance, while, on the other hand, it revealed a charac-

[1] The REVIEW will publish annually in the February issue an account of the diplomatic affairs and international law of the preceding year. In the other issues of the REVIEW similar articles will summarize the year's progress in United States constitutional law, foreign constitutional law, and labor law.

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teristic tendency of the age. The solidarity of international life is asserting itself more and more. Nations discover that they have lines of parallel and identical interest in common with a number of other countries, that it is impossible to confine their attention to those neighbors with whom they may be more closely allied, that in fact in some respects they may be far more intimately interdependent with nations with whom they have no direct political alliance or understanding. And thus an intricate web of world-wide interest and activities of a peaceful and progressive nature is being woven which nations find it more and more difficult to tear asunder for reasons of political hostility.

The reverse of this picture is the continued increase of armaments. It is quite paradoxical that the growth of coöperation throughout the world is accompanied by this increase in the energy and acuteness of international competition which expresses itself ultimately in national armaments. The expenditure for naval and military purposes has increased by leaps and bounds. In 1909 the total military expenditures of the five principal European countries, Japan and the United States, amounted to over sixteen hundred million dollars, and there has been an unparalleled development of warlike preparation. Yet it must be remembered that in an energetic age such as that in which we live, nations will inevitably desire to measure themselves in active competition, and that they see in their armament the index of national strength and proficiency. Such an index effectively maintained will give to nations relative position, which in itself will dispose of many possible conflicts and controversies. Instead of trusting to the uncertain chance of war, the definite calculations as to ascertained military strength may be made the basis of judgments upon which international affairs are settled. The movement is, however, in danger of becoming so costly to the individual nations as to sap their economic strength and to stunt development in other directions. It is not improbable that the danger of bringing the civilized world to the verge of bankruptcy can be prevented only by an international agreement.——The development of aerial navigation has already had an influence upon the temper of international affairs. It is felt that all our

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ideas of military defense and efficiency will have to be reconstructed as this method of locomotion becomes more perfect. On account of the difficulty of effectual protection against such agencies when used with a hostile purpose, it is believed by many that they will become a powerful influence towards the creation of more peaceful relations if not of wide and permanent alliances among the different nations of a continent.

The year did not bring any modification in the grouping of nations as it has existed for some time past. While on the one hand Germany and Austria were drawn together by stronger bonds than have ever before held them, as a result of the Balkan crisis, on the other hand these two powers have reason to count less upon the active and effectual coöperation of the Italian kingdom. Bitterness between Italy and Austria over all the questions that still separate these two allies has not abated during the year. Moreover, there has been a notable strengthening of the *rapprochement* between Italy and France, as was manifested in the enthusiastic observance by these two nations of the fiftieth anniversary of the battle of Solferino. The visit of the Russian czar in Italy during October has already been alluded to. When all is said, however, it is certainly not yet to be taken for granted that in the case of an actual rupture of peaceful relations Italy would rather go with France and Russia than with Germany and Austria. While the Triple Alliance has imposed upon Italy a heavy burden, yet the international prestige she has achieved was secured to her primarily through this alliance. The efforts of the kingdom gradually to conciliate the papacy would be doomed to failure through entering upon closer relations with "churchless" France and orthodox Russia. No one, indeed, can blame Italy for developing the many relations that bind her to the French republic. But as to Russia, it would be difficult to see how Italy could gain anything in particular by tying herself to the northern empire.

The Triple Entente has continued in unabated cordiality. Wherever Russian and British interests are parallel there has been, so it would seem at least to the outside observer, frank and loyal coöperation. The Continental powers, indeed, recognize

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that nothing would be gained by turning the *entente* into a more formal alliance, because in case of continental war, Great Britain in her present condition could be of very little assistance. The common fear of the possible advance of Germany holds these powers together; although the relations between Germany and France are more friendly than they have been for a long time, and in Russia there is a very strong party which opposes any policy that would permanently seek to identify Russian and British foreign policies.

## ANGLO-GERMAN RELATIONS

While nothing has occurred to break the normal pacific relations between Germany and Great Britain, yet the feeling existing among the people of these two countries towards each other has been very far from friendly. In the spring of the year, a veritable panic of apprehension over German military designs came upon the people of Great Britain. In the course of the navy-estimate debates in the house of commons, most alarming statements were made with respect to the rapidity of German naval construction and the manner in which, on account of the elimination of the older type of warship, Germany was rapidly assuming a position of parity with Britain on the sea. These statements were made in an exaggerated form in order to work upon popular sentiment and render it more favorable to larger expenditure upon the navy. Yet a feeling that the British admiralty had not fully informed itself about the construction facilities at the command of the German government lent a sense of reality to what otherwise might have been, in the cool light of reason, looked upon as merely a political campaign manœuvre. In a speech delivered shortly after these discussions had taken place in England, Prince Bülow emphasized the mutual interests of the two countries. He also stated that instead of having seventeen Dreadnoughts by 1912, as had been stated in the house of commons, Germany would only have ten, and that there would be no acceleration in the rate of construction. An acceleration had, indeed, taken place in the execution of the German programme, but the cry of "deceit"

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which was raised by some people in Great Britain did not carry much weight with the world, as Germany is not bound by any international engagements to a certain rate of construction, nor is she required by any law of international comity to give her competitors notice of any change in the rate with which her work may progress. On the other hand, it admits of no doubt that the remarkable increase in naval armament in Germany has led to the present state of accelerated competition. On the basis that, by 1920, the German navy will comprise thirty-eight battleships and twenty large cruisers, the French navy council in May proposed that the republic should by that year create a fleet of fifty-seven ships of the line. Of these, thirty-three are to be of the Danton class, ships of 22,500 tons, the cost of which is estimated at $425,000,000.

As the year wore on, the excitement aroused by the discussion of naval armaments cooled down somewhat, and relations between Germany and Great Britain assumed a more normal character of at least outward friendliness. But toward the very end of the year, some conservative leaders, hard pressed for an issue with which to meet the liberal budget at the polls, in order to reinforce other arguments refurbished the German scare and introduced it into the campaign as a promising weapon against their opponents. In February, a dispute between Germany and Great Britain concerning Walfisch Bay in southwest Africa was submitted to King Alfonso of Spain for arbitration.

### THE ANNEXATION OF BOSNIA AND HERZEGOVINA

The most important diplomatic activities of the year were those connected with the settlement of the Balkan dispute and more especially with the annexation of Bosnia and Herzegovina by Austria-Hungary. At the beginning of the year, the annexation of these provinces, which had been announced by Austria-Hungary in November, was still agitating the European world, and none of the powers had as yet taken definite position with respect to it. By those who opposed the action of Austria, it was charged that only a European conference could sanction

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this step, as it dealt with the European situation which had been settled by the treaty of Berlin. The holding of such a conference was demanded especially by Servia and was favored by the powers of the Triple Entente. As Bulgaria had also declared her complete independence from Turkey, her future status remained to be determined. The question as to what compensation Servia and other states might be able to get as a result of the changed conditions was entirely unsettled. It however soon became plain to the powers that Servia must be discouraged in any attempt on her part to obtain territorial compensation. Austria-Hungary, not desirous of having her interests involved in the uncertainty and the devious contingencies of an international conference, had taken up direct negotiations with Turkey, and succeeded finally, on February 26, in securing a protocol with Turkey in which the following points were agreed upon: Austria-Hungary gives up all claims to Novi Bazar; Turkey submits to the decision of Austria with respect to Bosnia and Herzegovina; the Bosnians living in Turkey and the Turks living in Bosnia retain their Ottoman nationality, and may own real property in Bosnia; Mohammedans are to enjoy freedom of religious worship in Bosnia—they continue subject to the Sheik-Ul-Islam and may mention the Sultan's name in prayer; in return for public lands held in Bosnia, the sum of two and one half million Turkish pounds sterling is to be paid to the Turkish government; Austria-Hungary will within two years make a commercial treaty with Turkey, meanwhile consenting to the increase of Turkish customs duties from 11 to 15 per cent and to the creation of several new fiscal monopolies; Austria-Hungary will give up her postoffices in Turkish towns where there are no other foreign postoffices; Austria-Hungary will support Turkey in the attempt to free herself from the capitulations and to place herself entirely under the common international law.

The opposition to the action of Austria on the part of Servia and Montenegro continued in unabated vigor. These countries hoped confidently for Russian support and continued their warlike preparations. At the end of March, however, Russia suddenly gave her consent to the action of Austria-Hungary and thereby made any further opposition to annexation hopeless. The deci-

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sion of Russia was due to unmistakable indications being received from Germany that Austria-Hungary would not be abandoned by her should hostilities occur over the question of annexation. Information which came out gradually in the subsequent months established the likelihood that Baron Aerenthal had been forced to decide for annexation by the precipitous action of Bulgaria in declaring its own independence. The result of these events was the annulment of article 25 of the Berlin treaty, by way of direct diplomatic action among the powers without the calling of a new conference. When this had been effected, Servia had no alternative but to adopt a pacific tone and to discontinue her military preparation.—Negotiations meanwhile went on for completing an arrangement whereby Turkey would recognize the independence of Bulgaria. The Russian government acted as mediator and it was finally arranged that Turkey was to receive a substantial payment in settlement of her claims against Bulgaria. The Porte thereupon, in August, recognized the royal title of the Bulgarian ruler. Through her good offices in this matter Russia has greatly strengthened her influences with Bulgaria. But the general result of the settlement of the Balkan crisis is found in the increased prestige of Austria and Germany. Even Servia, the country which was most directly affected by the Austrian action, showed an inclination to arrange its foreign affairs in the future upon the basis of closer relations with Austria-Hungary.

## CRETE

Cretan affairs present another difficult situation in which the European powers are deeply interested. At the beginning of the year, Crete, which had been granted an autonomous form of local government, was still under the protection of the four treaty powers—Great Britain, France, Italy, and Russia—who maintained a small force of occupation in the island. As this occupancy was by previous limitation to expire in July, great concern was shown in Turkey with respect to the future of Cretan affairs. On January 15, a large mass meeting was held at Con-

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stantinople which issued an emphatic protest against the alleged intention of the Greek government to undertake the annexation of Crete. The Turkish government at that time expressed its faith in the declaration of the Greek government to the effect that the solution of the question must be left in the hands of the four powers. After the turbulent days of the military revolution in Constantinople, the Porte in June again took up the Cretan question, and on June 18, formally requested the protecting powers to continue in occupation until the status of the island should have been definitely fixed. The Turkish government desired an unmistakable declaration that Crete should remain permanently subject to Turkish sovereignty. Among the Cretans there was a strong popular movement for union with Greece which was encouraged by the sentiments of the Greek people. The four powers were, however, not inclined at this time to settle the affairs of Crete beyond what had already been established in the arrangement of 1907. On July 26, the time fixed for the evacuation of Crete, the troops of the foreign powers were withdrawn, after a declaration had been issued that the powers would continue to watch over the maintenance of order and the safety of the Mohammedans in Crete. After the evacuation, the Greek flag was hoisted in many parts of Crete, whereupon the protecting powers sent an international detachment to cut down the flagstaff at Candia from which a Greek flag was flown. The Porte made a direct demand upon the government of Greece for an assurance with respect to its intentions in answer to which the latter disclaimed any complicity with the movement for annexation. In November, the Porte again requested the powers to give a definite settlement to the affairs of the island which would finally preclude annexation by Greece. The powers, however, did not comply with this request, as they did not think the time opportune for a final settlement. Meanwhile the ardor for annexation had by no means abated, either in Crete or in Greece. Great dissatisfaction was expressed in the latter country with the government, and especially the king, because of their failure to effect annexation. It was expected that King George could, through his European alliances, smooth the path for the movement. The Cretan

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leaders on their part proclaimed their union with Greece and made arrangements for the election of deputies to the Greek parliament. Great unrest and frequent disorders were reported from the Macedonian border. The Greek government is through these proceedings placed in a very difficult situation. Should it refuse to accept Cretan deputies when they present themselves, a revolution in Greece could scarcely be avoided, while the reception of the deputies would certainly be considered a *casus belli* by the Turks.

The annexation party in Greece is especially indignant and disappointed because the Greek government did not take advantage of the multiform embarrassments of the Turkish empire during the past year both in connection with the internal revolution and the Balkan difficulties. The golden opportunity has passed and Turkey, under the new regime, is less inclined than ever to give up an inch of her territory or any of her sovereign rights. The change in the Turkish situation brought about by the successful revolution, has led to a complete readjustment of diplomatic relations. It was not surprising that the German government should not at first have fallen in with the aims of the revolutionary party, but when the latter had proven its strength and established itself, Baron Marshall again revealed his remarkable diplomatic gifts by the manner in which he harmonized German relations with the exigencies of the new regime. Thus while the influence of Germany is at present not so overshadowing as it was in the Hamidian days, it has by no means been eclipsed. The energetic action of Austria and Germany in the Balkan affair has not failed to make an impression in Constantinople. The representatives of Great Britain, Russia and France were not so quick in gauging the new forces. The British relied too much on Kiamil Pasha who did not command the support of the young Turks. As a matter of fact, all three of these countries eventually displaced their ambassadors by new men. The Porte, under the government of the Young Turks, is pursuing a distinctly nationalist policy, choosing its associations with other powers entirely upon the basis of well-considered Turkish interest. With a reorganization of the Turkish state, Constantinople will loom larger than ever in world-politics, and other governments will consider

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their relations with the Porte of increasing moment. Before that is accomplished, however, the new leaders of Turkey will have many difficult problems to solve in their efforts to put the financial and administrative affairs of the empire upon a sound footing.

## MOROCCO.

Turbulent and exciting were the days of Morocco. The main seat of trouble and hostility was transferred from the west coast to the northern region in the neighborhood of Melilla. In January, Mulai Hafid, who had made good his claim to supersede the former Sultan, was recognized by the powers. Though the latter had antagonized him as a disturber of the peace, it would seem that he is not an unpromising candidate for introduction to more civilized methods of government and administration. The international situation was cleared by a *rapprochement* between France and Germany with relation to their interests in Morocco, which finally led to a definite agreement, concluded on February 9. In this agreement, the French government expresses its intention to uphold the integrityand independence of Morocco as well as the equality of opportunity in economic enterprise, and therefore pledges itself not to oppose German commerce and economic interest in that country. The German government, on its part, declares that in Morocco it is pursuing purely economic interests, and, recognizing that the special political interests of France are closely connected with the maintenance of order and peace, is determined not to oppose these interests in any way. Both powers declare their aversion to measures which would lead to the granting of exclusive privileges, and would limit the freedom of opportunity. The conclusion of this agreement was followed by the making of arrangements between French and German capitalists for coöperation in the development of Moroccan resources and in the construction of public works.

The Casablanca incident, which had been submitted to the Hague tribunal for arbitration, was decided on May 22. The case had arisen in 1908. Several men who had served in the French foreign legion were, while accompanied by a subordinate con-

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sular official of Germany, violently taken from the latter by agents of France. The court declared that while it was wrongful for the secretary of the German consulate at Casablanca to assist deserters from the French foreign legion who were not of German nationality; on the other hand, the circumstances did not warrant, on the part of the French soldiers, the use of threats and of violence. Upon mutual apologies, this incident, which might have led to continued irritation between the two countries, was happily disposed of.

New troubles arose in Morocco in July when a Spanish garrison which had been stationed to protect mines located near Melilla was attacked by Moorish tribesmen. The concession in question had been granted by the Roghi, whose authority was not recognized by Mulai Hafid. The Spanish government increased its forces in Morocco in order to maintain its ground and vindicate the honor of the Spanish flag. Severe fighting continued for some time, in which several hundred Spanish soldiers and many more Moorish tribesmen were killed. The action of the Spanish government was not popular at home, and in many of the Spanish towns anti-conscription riots took place. Yet the government adhered to its purpose to get satisfaction for the original outrage, and to secure an effective guarantee of the treaties for the development of the Spanish interests in Morocco. For a time it was believed that friction might arise with France, but the French government declared that Spain was keeping it fully informed as to the steps taken. The powers were meanwhile expostulating with the Sultan with a view of securing a better observance of various international agreements formerly concluded and also of preventing the recurrence of barbarous punishments so common among the Moors.

Towards the end of the year, Spain had succeeded in reëstablishing peace and order in her sphere of influence so that further active operations were suspended. The Sultan had been carrying on negotiations for a loan of £6,000,000, and in December arrangements had practically been concluded for granting this loan in the European money centers. The French government, after considerable pressure, succeeded in establishing all its claims against

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Morocco and in having them definitely agreed to by the sultan. French troops are to remain in the region of Shauja and Ujda until the claims of France have been entirely complied with. Casablanca is to be occupied until the costs of the French expedition are paid. France has obtained the creation of a Moroccan-French commission for Ujda, which is to supervise the police, the markets, and other branches of local administration. In order to provide for the prompt discharge of the various obligations of the Moroccan government, practically all the public income has been placed under French control, and thus, in substance, Morocco has become a fiscal protectorate.

## PERSIA

Many storm clouds passed over Persia in the course of the year 1909. During the earlier months, uprisings continually took place against the shah, whom the constitutional party considered hostile to government reform. On account of the widespread unrest, Russian troops were brought into northern Persia in order to protect Russian interests there. This naturally resulted in a great deal of apprehension among Persians that under the treaty with Great Britain, Russia would attempt to take possession of northern Persia as a protectorate. Great Britain too had landed marine troops at Bushire, which proceeded thence to Shiraz. Across the Turkish border came troops of the sultan sent to prevent the spread of disorder into Turkish dominions. In July, the position of the Shah became untenable. He was formally deposed and took refuge in the Russian legation. The diplomatic representatives of Russia and Great Britain arranged for his departure with his family, for the payment of a pension, and for the retention of his title. The shah's son Ahmed Mirza, a boy of twelve years, succeeded to the throne. Throughout this troubled period, Russia and Great Britain kept each other mutually informed and coöperated in such arrangements as the circumstances rendered necessary. The Mejliss was opened on November 14th, with a speech from the throne in which the general condition of the country was pictured as happy and prosperous, with nothing

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to mar it but the presence of foreign troops on Persian soil. The parliament was bountiful in nationalist professions, directed especially against the policy of asking a loan of the powers. Renewed increase of Russian troops in the north agumented the suspicion against the Slav empire. A Russian consul-general was attacked at Bushire by Kashgars, for which act due apology had to be made by the government. In December, Russia promised a partial withdrawal of her troops. Being hard pressed, the parliament approved a foreign loan and also sanctioned the employment of Europeans in the finance department. A preliminary loan of £500,000 was arranged for through Russia. A mixed commission was instituted for the settlement of the boundary dispute with Turkey.

### SIAM

In March Great Britain concluded a treaty with Siam, under which a number of pending political questions between the two countries were settled, including the rectification of the boundary. The most important provision of the treaty is the partial discontinuance of extra-territorial privileges. British subjects registered before the date of the treaty are still to remain under the jurisdiction of the international courts, but those who shall come to Siam subsequently are to be subject to the native judiciary, with the provision, however, that, in the cases involving the rights of British subjects, a British assessor shall sit with the court. It is also provided that British residents shall be liable to the ordinary burdens of taxation. In pursuance of the treaty, in July, the three Malay states of Kelantan, Tringganu, and Kedah were formally taken over by the representatives of Great Britain.

### THE FAR EAST—CHINA

The Chinese empire concerned itself primarily with the adjustment of its own internal affairs. The new régime under the Prince Regent began its administration with numerous declarations favoring a progressive policy. The development of institutions of self-government proceeded; elections were held for the

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provincial assemblies, and, for the first time in the history of China, elective assemblies met for the discussion of public affairs. The central administration was, however, weakened through the loss of several of the ablest men in the official life. The former viceroys, Yuan Shih-kai, Tsen Chun-hsuan, and Tuan Fang, are in enforced retirement, the place of the latter having been taken by Chen Kwei-lung, a man of less experience and ability. The most prominent and able of the conservatives, Chang Chih Tung and Sun Chia-nai, have lately died. Two other strong officials, Chao Erh-hsun, stationed in Szechuan, and his brother Chao Erh-feng, stationed in Thibet, are reported as being out of touch with the central government and endeavoring to resign. Thus the lack of high officials of proved ability and long experience is conspicuous. Prince Ching, who is at the head of the Wai Wu-pu, has been carrying on the management of foreign affairs in a somewhat listless fashion and has not succeeded in inspiring Chinese diplomacy with energy and self-confidence. The position and influence of the foreign powers at the Chinese capital did not change during the year, except that the influence of the United States was more strongly asserted. The American government occupies a very favorable position. Having no territorial interest in China, it has a freer hand than other powers and is not subject to the suspicion of desiring to extend its holdings. Its traditionally friendly policy toward China, its support of the Chinese government with respect to the opium question, and especially its remission of a part of the Chinese indemnity of 1900, have given it a strong claim to be regarded as truly impartial in Chinese affairs and well disposed toward Chinese aspirations. The personal acquaintance of President Taft with oriental conditions led him to take a special interest in the affairs of China and to express a desire that the people of the United States should become fully aware of the importance to themselves of far eastern affairs. The American government has preserved unchanged its policy, first laid down in Mr. Hay's famous letter, of supporting the principle of equality of opportunity and of respect for the integrity of the Chinese empire. In the course of the year, an occasion arose for asserting more specifically the desire to have American enterprise

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participate in Chinese development. By a preliminary agreement concluded on May 6, the British, German and French financial groups interested in China, arranged with the Chinese government for the development of the railways in the south and west of the empire. The British withdrew their claim to share in the construction of the Hankow-Szechuan Railway, while the Germans declared themselves willing to forego participation in the Canton-Hankow line. A loan of £5,500,000 was arranged for. It was to be furnished equally by the three parties and the proceeds were to be divided between the two railways. It may be noted here that the attitude of intense opposition to foreign concessions manifested by the Chinese people still prevails. Such general concessions as were made before 1900 would no longer be tolerated without great public opposition. But, on the other hand, China does not as yet possess the financial and industrial organization that would enable her to get along entirely without foreign assistance in these matters. For this reason, special agreements are concluded with foreign interests under which the latter furnish finanial assistance, structural materials, and the expert knowledge required in construction and management.

When the nature of the above arrangements between European financiers and China became known, President Taft sent a telegram to the Prince Regent in which he emphasized the right of American capital to participate in railway loans. The Chinese official world was stirred by this action into realizing that the policy of drift in international affairs could not be allowed to continue, and that China must take an independent position, not allowing herself to be dominated by any power or group of powers, but basing her action upon general principles of justice and national policy. The decisive action taken by the president led to a re-adjustment of the railway arrangement. The loan was increased to £6,000,000, of which each of the groups interested was allotted one-fourth. The American capitalists share on an equal basis with those of the other nations. In his message of December 7, 1909, President Taft stated, in explaining this action, that, as the railway loan represented a practical and real application of the "open door" policy through coöperation with China

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by interested powers, as well as because of its relations to the reforms in the currency, the customs tariff, and the *likin* revenues, the administration deemed American participation to be of great national interest both in the matter of the loan and in the furnishing of railway materials.

### THE MANCHURIAN CONTROVERSY

The rights acquired by Japan through Russia under the treaty of Portsmouth have given rise to long continued diplomatic controversy between China and Japan. In connection with the South Manchurian Railway, Japan obtained an administrative foothold in Manchuria. In all the important commercial towns along the railway, large settlements were created which were placed under Japanese administration and police. Colonization was systematically carried on in agricultural districts and in the region of the mines. In connection with this, Japanese commerce was given every advantage which the administration could secure for it without direct infringement of treaty obligations. These vigorous efforts of Japan to extend her influence in Manchuria caused great apprehension on the part of China; that government attempted to strengthen the local administration and fostered colonization of the interior of Manchuria by Chinese from the middle provinces. The controversy between the two governments centered upon certain points: railway construction, mining development and territorial rights. Japan desired to rebuild the narrow gauge line which connects Antung on the Korean frontier with the Manchurian Railway at Mukden. Under the treaty of Portsmouth, Japan was given two years to improve this railway. As the period had expired, China refused to grant her consent to a reconstruction out of fear that the railway would be primarily strategic in its purpose as the country through which it passes is poor. Japan on the other hand, insisted that it was necessary to broaden the gauge and change the trace of the railway, as otherwise it would not be useful for international commerce, especially as it is to form a link in the transcontinental railway from Korea to Siberia and Russia. As the Chinese government delayed in

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giving its sanction to the changes, Japan gave notice that the work would be carried on without Chinese consent. It was claimed on behalf of the Japanese position that China had engaged in unreasonable obstruction and procrastination and that to accept the position of China would be utterly to destroy the value of the railway. The Chinese government thereupon immediately waived its objections to the widening of the gauge and the necessary changes of route, but still insisted that the railway should not be policed by Japanese troops.

The other points of controversy between China and Japan were still unsettled. Several times the Wai Wu-pu had suggested that they should be submitted to the Hague tribunal for arbitration, but Japan refused to accede to this suggestion on the ground that the resources of diplomacy had not yet been exhausted. Other powers who were appealed to by China to support her in this demand did not feel justified in interfering. The questions between China and Japan were grouped about three main interests. China desired to extend toward the north her own railways and was especially anxious to construct a line from Hsin-min-tun to Fa-ku-men. Japan opposed this plan because the line would to a certain extent run parallel to the South Manchurian Railway and would thus be a competing line, the existence of which had been excluded by the Portsmouth treaty. The Chinese also desired to connect their railway directly with Mukden. The second point of controversy related to the control of the coal mines that are appurtenant to the railway ceded by Russia. Finally there was a territorial dispute concerning Chientao, a district adjoining the northern boundary of Korea. Japan, in behalf of Korea, made a claim to this territory and argued that it was illegally occupied by China; but even if she were to recognize Chinese sovereignty, Japan asserted her right of jurisdiction over the Korean inhabitants. China denied both claims on the ground that Chientao had always been Chinese territory and that the Koreans residents there had received a right to occupy land only upon surrendering their nationality. After long and ardous negotiations, these matters were finally adjusted in two conventions between China and Japan, signed at Peking on September 4. In the Manchurian

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convention, the Chinese government for the time being gave up the idea of constructing the Fa-ku-men Railway. The collieries of Fu-shun and Gen-tai are acknowledged to belong to the Japanese government, but a tax upon the product is to be paid to China equal to the lowest tax levied in any part of China. Collieries adjoining the Antung-Mukden Railway, and the southern Manchurian Railway, with the exception of those mentioned, shall be exploited jointly by Japanese and Chinese subjects according to the principles agreed upon in 1907. The Japanese government withdraws its objection to the extension of the Peking Railway to the city walls of Mukden.——In the Korean convention, Chinese sovereignity over Chientao is recognized. It is provided that four towns are to be opened as treaty ports for the residence of foreigners. Koreans residing outside of these towns are to be subjects to Chinese jurisdiction, but Japanese consular officials are given the right to be present at trials of Koreans. The building by China of a railway from Kirin to the Korean boundary is provided for.

These conventions seem to contain such a complete adjustment of the differences between China and Japan that many foreign papers assumed that a thorough understanding had been arrived at between the two governments and that they would coöperate in other matters in the future. However, the reception given to the convention in China was not enthusiastic. Many Chinese papers went so far as to describe the convention as a permanent cession of Manchuria to the Japanese. This is certainly an exaggerated view. The Japanese, notwithstanding their strong military position, have dealt with China in the spirit of give-and-take; and although they have maintained the main lines of their influence in Manchuria, China has gained a distinct advantage through the recognition of her disputed rights in Eastern Manchuria and in other details of the convention. The manner in which this convention affects other nations is thus dealt with by President Taft in his message of December 7: "After a thorough examination of the convention, the secretary of state reached the conclusion that no monopoly of mining privileges along the South Manchurian railroads was intended or accom-

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plished. To confirm the view which he reached, this government made inquiry of the Imperial Chinese and Japanese governments, and received from each official assurances that the provision had no purpose inconsistent with the policy of equality of opportunity."——In January, a convention was concluded between China and Japan by which the Manchurian telegraphs outside of the railway zone are transferred to China. The use of the Gregorian calendar and of the English language is stipulated for all administrative communications.—On account of the prominence of the difficulties between Japan and China, the relations of Russia to that latter country have not attracted so much attention. Still, negotiations have been going on continuously with a view to settle the jurisdiction to be excercised by Russian authorities along the North Manchurian Railway. The Chinese government resists any claim for exclusive jurisdiction, in which position it is supported by other powers. The Russian finance department, which represents the railway, is pressing for special powers to be exercised by the railway officials; whereas the foreign office, were it left to determine the matter alone, would perhaps be satisfied with the exercise of a general consular jurisdiction. A preliminary agreement between the governments was arrived at in May.

On March, 28 an imperial rescript decreed a new law of citizenship for China. The law contains provisions with respect to citizenship by birth and by naturalization. The latter requires residence of ten years, the possession of good character, and of means of support. A Chinese subject cannot divest himself of his citizenship without having secured the permission of the government. ——The Chinese government has objected to the use of wireless telegraphy by private persons or corporations. It looks upon wireless telegraphy as being among the public regalia of the State.

## KOREA

The situation in Korea continues full of difficulty for the Japanese government. A great many works of improvement have been constructed, and the financial administration of the country has been put on a sound basis. Yet the relations of the Korean public to their new masters still leaves very much to be

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desired, and it must be confessed that the intention of Japan to enforce her authority upon the Koreans is meeting with a determined and unabated resistence which bodes trouble in the future of the far east. At the present time, of course, the Koreans cannot hope for support by foreign powers, but should the Japanese government not succeed in pacifying the country and gaining the good will of its inhabitants, the situation will be one of continued weakness to Japan, which eventually some opponent might take advantage of. In August, the direct control of the Japanese government over Korea was further extended through the abolition of the Korean department of justice and its replacement by a bureau in the Japanese residency-general. Korean law is still to be administered, but Japanese will act as judges until Korean candidates can be better educated in the law. Japan desires as soon as possible to have the consular jurisdiction which foreign nations still exercise in Korea, displaced by a system of judicial autonomy administered by herself. At the same time, the war department of Korea was also abolished. As the Korean army was disbanded in 1907, the department had become superfluous. These changes, while in line with the policy of Japan of giving greater efficiency to the Korean administration led to a new outbreak of popular anti-Japanese feeling among the Koreans. This wave of Korean patriotism led to some deplorable acts. Most distressing both to Japan and the rest of the world was the assassination of Prince Ito, the greatest statesman of modern Japan, who had devoted his last years almost entirely to Korean affairs. In December, the Korean Premier, Yi Wan Yon, was mortally wounded by an assassin. The responsible Japanese press and public exercised great self-control at the time of Prince Ito's murder and did not hold the Korean people responsible for the act, nor did they call for more restrictive measures. As a result of the removal of Prince Ito from the theatre of Japanese political life, the conservative elements under the leadership of Marquis Yamagata gained largely in influence in the counsels of the empire.

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FOREIGN RELATIONS OF THE UNITED STATES

A most important treaty between the United States and Great Britain was signed on January 11, by Mr. Root and Mr. Bryce. It deals with the division and control of the waterways along the entire boundary between Canada and the United States. The interests involved are therefore of great and increasing moment to both the countries concerned. Among other things the control of the Niagara water power was provided for, which has for years been under consideration between the governments of Washington and Ottawa. The treaty also covers the problems concerned with the navigation and fisheries of the Great Lakes and frontier rivers, as well as the use of these waters for various industrial purposes. A permanent joint commission of six members is provided for. The three British members are to be appointed by the king upon recommendation of the Canadian government. The international joint commission is created for the purpose of settling differences that may arise in the future. In such cases, the commission is to make a thorough investigation and thereupon to submit its conclusions and recommendations to the two governments. Its findings are not to have the character of an award unless the commission has been specially charged to render a decision of that nature. Should the commission not be able to reach an agreement upon any question, the matter is to be submitted to the Hague tribunal. The treaty was ratified by the United States senate with certain amendments relating to the St. Mary's River, Michigan, and to the drainage of swamp lands into streams flowing into boundary waters. These amendments were made the occasion on the part of Canada for requesting a postponement in ratification by the British government. On account of this delay, the treaty was not ratified during the year 1909.

Another important agreement was made between Great Britain and the United States for the submission to arbitration of questions relating to fisheries on the North Atlantic Coast. Article 1 of the convention of 1818, by which these fishery rights are defined, has been subject to a great deal of controversy in its interpretation. The agreement of January 27, 1909, provides

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that certain specific questions are to be submitted for decision to a tribunal of arbitration. These questions concern, among other things, the power of the local governments to regulate by municipal laws or ordinances the operations of fishermen; the existence of this power the United States has not been willing to grant. Other matters submitted are the composition of the fishing crews, the payment of light and harbor dues, the obligation to report at customs houses, and the question as to the proper extent of the marginal sea. The tribunal of arbitration is chosen under the Hague convention and will hold its sessions and make its determinations in 1910. The preliminary agreement was ratified by the senate on February 18, 1909. The fisheries case constitutes the most important litigation as yet submitted to the Hague tribunal.

On January 11, 1909, Secretary Root transmitted to the minister of Belgium a note concerning the state of affairs in the Belgian Congo. He declared that "the United States has been forced to the conclusion that in several respects the system inaugurated by the Independent State of the Congo has in its practical operations worked out results inconsistent with the conventional obligations (under the Brussels convention of July 2nd, 1890, especially article II), calling for very substantial and even radical changes in order to obtain conformity therewith." He points out the various methods of governmental action in the Congo which have lead to results inconsistent with the treaty rights and expresses the hope that the conventional rights conferred on the United States by the treaty will be respected and enforced by Belgium in its character as sovereign of the Congo State. The steps taken by the government of Belgium to improve the state of affairs in the Congo region have been gratifying to the United States. In his message of December 7, President Taft said:

"The attitude of the United States is one of benevolent encouragement coupled with a trust that the good work responsibly undertaken. . . . will soon satisfy the demands of humane sentiment throughout the world."

A treaty between the United States and Germany was signed on February 23 for the mutual protection of patent rights. In

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January the postal letter rate of two cents per ounce had gone into effect between Germany and the United States. In the same month, a new extradition treaty between the United States and France was signed. The general relations between the United States and these two powers were most friendly; but when after the passage of the tariff law in July, it became necessary for the American government to denounce its commercial arrangements with Germany and France, the question arose as to what form the future commercial relations between these countries would assume. Although there was continuous negotiation between the governments involved, a basis for action was not arrived at in the course of the year, although the time at their disposal for making such arrangements was but short since the limit for the expiration of the present status is February 7, 1910. As the United States government demands the abandonment of the exclusion laws against American meats, the German government may be obliged to resist the agrarian party, which clings to these laws with great tenacity. Should no arrangements be arrived at by February 7, the maximum rates in France and Germany will go into effect against the United States, while in the latter country maximum rates under the new tariff law would also be imposed.

An interesting decision was rendered by the supreme court of the United States in the case of Maiorano *v.* the Baltimore and Ohio Railroad Company, which concerns the treaty rights of aliens in the United States. The supreme court upholds the decisions of the supreme court of Pennsylvania, according to which an alien is not in that state accorded the right to bring an action to recover damages for the death of a relative occasioned by unlawful violence or negligence. The court holds that while an alien resident is given the same protection and security which the laws accord our own people, non-resident alien relatives are not given a right of action for damages for the death of an alien residing in the United States.

While the relations of the United States and Japan have been friendly throughout, there was at the beginning of the year some danger that friction might occur on account of legislative proposals introduced in the states of California, Nevada, Nebraska

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and Oregon. Among the bills introduced in the California legislature, there were measures providing for the segregation of Asiatic residents in the larger cities, separate schools, and the withdrawal from Asiatics of the right to acquire real property and to act as directors of corporations. President Roosevelt made a personal appeal against the form and substance of this legislation and the temper of which it was an expression. He took the ground that by treaty the Japanese are entitled to be protected against discrimination and indicated that the legality of any laws passed by the state legislatures would immediately be tested in the federal judiciary. As none of the objectionable bills were passed, the relations between Japan and the United States remained unclouded.

The United States government continued to interest itself in the affairs of the far east. When the Chinese railway loan for the Szechuan line was arranged for, the United States government, as has been indicated, insisted upon American financiers being admitted to a share in this undertaking. The development of the situation in Manchuria was closely followed at Washington, and the basis was prepared for the highly important suggestion which was made by Secretary Knox in the first week of January, 1910, looking towards the purchase and neutralization of the Manchurian railways.

At the beginning of the year, a delegation of the United States government took part in the First Pan-American Scientific Congress, held at Santiago, Chile. This congress marked a further step in the growth of a feeling of solidarity, coöperation and mutual sympathy between North and South America. In matters of international law, the congress devoted its attention chiefly to those problems and principles which have a special bearing upon the countries of the new world. The Pan-American movement continued to progress in other ways during the year. Ratifications of the various treaties made at Mexico in 1902 and at Rio in 1906 continued to be made, so that by this time the treaty relations resting upon Pan-American arrangements already occupy a considerable part in American international affairs. Pan-American commissions had been appointed in nearly all the American republics. Their action and coöperation tended to give

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greater vitality to the movement. In preparation for the fourth Pan-American conference, to be held at Buenos Aires in July, 1910, the governing board of the International Bureau of American Republics worked out a tentative programme for the deliberations of the conference. It deals with the further development of the matters already undertaken by past conferences and adds other subjects of discussion, such as questions of immigration, neutrality, conservation of resources, wireless telegraphy, and conservation of the food supply. Early in the year, the United States concluded general arbitration treaties with twelve of the Latin-American states. These treaties provide for the arbitration of differences of a legal nature or relating to the interpretation of treaties, provided that they do not affect the vital interests, the independence, or the honor of the contracting states.

At the beginning of the year, Venezuela, under its new government, was making an effort to enter into more normal and friendly relations with the various powers with whom controversies had existed in the recent past. The United States government sent Mr. W. I. Buchanan as its special representative to adjust the many claims pending with Venezuela. After a period of negotiation, a protocol was agreed upon on February 13th, under which three claims are to be submitted to the Hague tribunal for arbitration, while others were settled immediately for a cash payment. In the course of the year, some other pending claims were also adjusted. The United States government being interested in the maintainance of stable and peaceful conditions in Venezuela, assisted the Venezuelan government in preventing the return to that country of ex-President Castro. Great Britain, France, and the other powers having sovereignty over West Indian Islands, were prevailed upon to announce that they would not allow the ex-dictator to stop in any of their West Indian possessions. When General Castro attempted to return directly to Venezuela, he was not allowed to land by the Venezuelan government, and upon making an attempt to stop at Martinique, was summarily expelled by the French authorities. In this manner it was possible to prevent the further stirring up of trouble and revolution in Venezuela.

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A treaty between the United States and the Republic of Colombia was signed in January, and the senate of the United States advised its ratification. At the same time, a treaty was signed between Colombia and Panama, in which the independence of the latter was recognized by the mother republic. The treaty with the United States provided, among other things, that the Republic of Colombia should enjoy the liberty of transporting over the Panama Canal, warships, military materials, mails, and public property without the payment of any dues. In view of an adjustment made with Panama, the United States agreed to pay Colombia the sum of $2,500,000. Moreover, the revision and reinforcement of the treaty of navigation and commerce of 1846 was provided for. When this treaty was submitted to the national assembly of Colombia, the request was made of the government that its consideration might be postponed in order that the people might more fully inform themselves upon the bearing and significance of its articles. The final ratification of the treaty has thus been delayed. The change in the government of Colombia also contributed to this result. General Reyes, under whose auspices the treaty had been concluded, resigned the presidency and was succeeded by General Valencia.

The perennial trouble in the Central America republics caused the United States to take a somewhat more direct and active interest in some of these countries, with a view to bringing about a settlement of their affairs and aiding in the creation of more stable conditions. American financial interests came forward with proposals for refunding the debts of various Central American states upon a basis just to both the governments and the creditors. Thus in the case of Honduras, interest on whose debts has not been paid since 1873, a proposal was made to the National Association of French bondholders to refund the debt on the basis of 15 per cent of its face value. Similar arrangements were proposed in Guatemala, Nicaragua, and Costa Rica. The affairs of Nicaragua have especially attracted the attention of the American government during this year. In March, a controversy arose over the cancellation of certain concessions and the refusal on the part of the Nicaraguan government to carry out the arrange-

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ments for arbitration made in 1907. At that time, Nicaragua was on the point of going to war with Guatemala in connection with the troubles over Honduras and the litigation in the Central American peace court. The United States and Mexico coöperated in this matter for the purpose of preventing war. In May, as unrest continued in Nicaragua and rioting was frequent, a United States cruiser was sent to protect American interests in that country. In the same month, Nicaragua sent a special commissioner to Washington to settle the disputed claim of the Emery Company. It was finally agreed that the company was to receive an indemnity of $600,000. In November, two American citizens, adventurers who had for some time lived in Central America, were executed by the government of Nicaragua on the ground of having been engaged in an enterprise to blow up some government troop transports on a Nicaraguan river. The department of state took the ground that this execution was illegal, and demanded the punishment of whoever might be responsible therefor. On account of the general behavior of the President of Nicaragua towards American representatives, the American government broke off direct relations with him early in December. A revolution was at the time raging in Nicaragua. The secretary of state, in his letter breaking off diplomatic relations, expressed the belief that this revolution represented the better aspirations of the Nicaraguan people, but he did not go beyond asserting the need for a stable government in Nicaragua and expressing determination to protect American interests there. President Zelaya thereupon resigned the active execution of his office and escaped to Mexico. He was succeeded in office by Dr. Madriz, a member of the Central American Tribunal of Arbitration, who was not acceptable to the revolutionary party.

In November the United States government made a categorical demand upon the government of Chile for the settlement of the Alsop claim. The American government signified its readiness to refer the claim to the Hague tribunal, provided that the decision in favor of Chile given by the Washington arbitration tribunal in 1900 should not be referred to. This decision rested upon the fact that Alsop and Company were a Chilian firm, domiciled in that

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country. As an alternative to arbitration, the United States demanded the payment of $1,000,000. The Chilian government immediately deposited this amount to the order of the Hague tribunal but insisted upon a full argument of the case. As a result of further negotiations, a different arrangement was made by which the Alsop claim was referred to the king of great Britain for settlement. Both parties will present their respective case in a note to his majesty.

## LATIN-AMERICAN STATES

The relations between the Latin-American republics were in general friendly and peaceful, although several occasions for friction arose in the course of the year. The grouping of states in their international relations was not materially affected by anything that happened during the year. From this it results that in considering South American diplomacy, the effects of the war between Peru and Chile are still of prime importance. We shall, however, in this review consider the different states rather in their geographical relations than from the point of view of grouping according to diplomatic affinities.

The situation in the Central American states has not perceptibly been changed for the better, as jealousy between the different republics and covert hostility still continue. On January 1, the first international Central American conference began its sessions at Tegucigalpa. Under the treaty of Washington, of 1907, this conference is to be held annually, meeting in rotation in the different republics. The present conference signed conventions for the purpose of unifying the monetary system, the customs laws, weights and measures, the fiscal laws, and the consular service of the Central American countries. These conventions were signed *ad referendum* to be submitted to the separate governments for ratification. The Central American court of justice, on the ground of want of jurisdiction, dismissed the case of Fornos Diaz v. Guatemala, the second case which has come before this court. The plaintiff in this litigation alleged unlawful imprisonment on the part of the government of Guatemala.

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As a result of the change in the Venezuelan régime, diplomatic relations were resumed between that country and Colombia. They had been broken off since the beginning of the government of President Castro. On June 2, a preliminary treaty was signed which provided for a rectification of the boundary between Colombia and Venezuela, and for the cession of a strip of territory on the Orinoco, Trinidad, and Negro rivers to Venezuela.

The relations between Peru and Chile unfortunately did not improve during the year 1909. At the beginning of the year, the minister of Chile withdrew from Lima as a consequence of the refusal on the part of the Peruvian government to permit him to deposit a bronze wreath upon the graves of Peruvian soldiers that had fallen in the war with Chile. In response to the inquiry on the part of the Chilian minister whether it would be acceptable to the Peruvian government that he should perform this act of homage, the Peruvian minister of foreign affairs made answer that while he appreciated the courtesy, he did not consider that the relations between the two countries were such as to render a ceremony of that kind appropriate. In connection herewith, he rehearsed the Peruvian contentions in the Tacna and Arica matter. The status of that unfortunate question has not changed since the refusal of Peru to accept the proposal made in March, 1908, by Señor Puga Borne, the Chilian minister of foreign affairs. The Chilian government as that time proposed the conclusion of commercial treaties of reciprocity as well as agreements for the common construction of railways and for other means of industrial development. The plebiscite which was provided for by the treaty of Ancon, 1883, Chile was to supervise; all present electors of the two provinces should participate in it; and the electoral commissions should be composed of Chilians with members of other resident nationalities as assessors. Chile also proposed to raise the amount of indemnity to be paid to the country which as a result of the vote would lose Tacna and Arica, to the amount of £2,000,000 or £3,000,000. The amount provided for by the treaty in £1,000,000. In opposition to these proposals, the government of Peru maintains that in the plebiscite only persons born and resident in Tacna and Arica should be

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permitted to vote, and that the election should be supervised by a neutral power. At the time of the incident of the wreath (*corona*), it was feared that war might result, because it was thought that Chile, becoming impatient, might declare the annexation of the two provinces, and determine upon using force against any attempt on the part of Peru to recover them. The Chilian nation is, however, very anxious for commercial and other reasons to settle this matter peacefully, though the government of Peru is determined to insist upon what it considers its rights under the treaty of Ancon. Of late it has been asserted in behalf of the Chilian government that the clause relating to the provinces of Tacna and Arica was adopted solely for the purpose of saving the feelings of the Peruvians at the time, and, in the anarchical conditions then prevailing in Peru, to make possible the establishment of a recognized political authority by which the treaty of peace might be accepted and ratified. It has also been urged that plebiscites in cases of international cession have always been regarded as pure formalities. The territory involved in this controversy is not in itself of great value; the rich nitrate deposits lie in the two provinces to the south; but as long as Chile lacks a longitudinal railway connecting the nitrate region with the national capital, the provinces of Tacna and Arica have a certain strategical value.

Peru was involved in another international conflict with her neighbor, the republic of Bolivia. Under a treaty made in 1902, the determination of a disputed part of the boundary between Bolivia and Peru was submitted to the decision of the president of Argentina. After the matter had been fully argued, the arbitrator, in July, made a decision establishing a boundary which was to follow the Rio Heath and the Madre de Dios as far as the mouth of the Toromanos river, thence to proceed in a straight line as far as the intersection of the Tahamanu with the sixty-ninth meridian west of Greenwich, and thence north along the said meridian until the territory of another power is reached. When the decision was announced in Bolivia, great public excitement was aroused. The decision was characterized as being entirely too partial to Peru and mass meeting of Bolivians called

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upon their government to refuse its sanction to the treaty. They went further and made violent attacks upon the Argentinian and Peruvian legations as well as upon citizens of those republics. These demonstrations led to great ill-feeling on the part of Argentina, and made the withdrawal of the Argentinian legation necessary. The Bolivian government, however, restored order and made ample apologies. Yet it did not accept the arbitral sentence, but entered into a special agreement with Peru for fixing the boundary by direct negotiation. While the boundary as determined upon by the president of Argentina had divided the disputed territory into two fairly equal parts, it had nevertheless awarded to Peru certain regions which had been, from immemorial times, occupied by Bolivia. On the other hand, regions where Peruvian settlement had long existed were given to the Bolivian republic. The basis of the final agreement was of such a nature that such transfers of occupied territory were avoided. The boundary line as now determined follows the Lanza river, then passes along the Heath to its intersection with the Madre de Dios, thence in a straight line to the fortress of Illampu, and thence north along 69½° 35′ west of Greenwich. The original excitement on the part of the Bolivian people was greatly increased by the fact that the maps in common use in Bolivia are drawn on the bases of the meridian of Paris instead of that of Greenwich. Read in that sense, the decision of the president of Argentina would have taken from Bolivia a broad strip of territory which had long been in the acknowledged occupation of that country. When this curious popular mistake was discovered, the excitement somewhat abated, but even then the decision was not entirely acceptable. Because of the action of Bolivia in rejecting his decision, the president of Argentina refused to act as arbiter in the boundary dispute between Bolivia and Paraguay, which had also been submitted to his decision by treaty.——In May, during an attempted uprising against the government in Lima, a number of the insurgents took refuge in the house of the Swedish consul-general. In order to manifest its disapproval of this grant of asylum, the Peruvian government cancelled the exequatur of the consular official.

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General arbitration treaties having been concluded between Brazil and Argentina and between Argentina and Chile, the relations between there countries assumed an aspect of greater friendliness during 1909. The year began with the memories of the "Dispatch Number Nine" still vivid in the minds of South Americans. But while this incident had caused temporary irritation between Brazil and Argentina, it did not lead to any permanent alienation of mutual good-will. A certain rivalry between these three great states of South America is, of course, inevitable. Possible sources of irritation, the existence of which cannot be denied, are from time to time made the basis of a demand for larger armaments, and the press is kept busy with reports of diplomatic intrigues. Yet it would be difficult to discover any fundamental and serious conflict of interests between these countries. While the Bolivian controversy was in an acute stage, it was feared that war might come about between Argentina and Bolivia, and it was believed that, in such an event, either Chile or Brazil would support the latter country. The Bolivian representative in Chile sent out reports according to which the Chilian government was alleged to have committed itself to the support of Bolivia; but when the Chilian minister of foreign affairs demanded specific information, the Bolivian envoy could not produce anything but irresponsible expressions made by members of the parties of opposition. As a result of his behavior, his dismissal was called for by the Chilian government. Brazil acted as a peacemaker between Bolivia and Peru, and as a result was able to secure a treaty by which her own boundary with Peru has finally been settled. In this manner, two sources of unrest and possible complication in South America have been gotten rid of—the boundary question between Peru on the one hand and Bolivia and Brazil on the other. Brazil, in March, also concluded a treaty with Colombia, by which commerce and navigation on the river system common to both these countries is regulated. On November 5, a treaty was concluded between Brazil and Peru, for the settlement by arbitration of questions between the two republics. On November 6, Brazil and Uruguay agreed upon a treaty defining their boundary line in so far as it affects the Lag-

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una Mirin and the Yaguaron river. The establishment of a Japanese legation in Chile bears witness to the growth of direct relations between South America and the far east.

## INTERNATIONAL LAW—THE DECLARATION OF LONDON

The naval conference of London accomplished a work which will stand as one of the great landmarks in international progress and which, indeed, constitutes a new departure in international life. A code of international law relating to the rights and duties of belligerents with respect to neutral commerce was accepted as a body of world-law to be interpreted and applied by a standing international tribunal. This conference was called as a result of the adoption by the second Hague conference in 1907 of a plan for an international court of appeals in prize cases As the interpretation of the principles of international law which this court would have to apply had been notoriously discordant and conflicting, it was thought advisable that a conference of the leading naval powers should be summoned for the purpose of arriving at a more harmonious and consistent formulation of the rules involved. Upon invitation of Great Britian, the conference met on December 2, 1908, and continued in session until February 26, 1909. The following governments were represented: Great Britain, Germany, France, Austro-Hungary, Italy, and Russia, The United States, Japan, Spain and The Netherlands. The programme submitted by the British government included the following matters: contraband, blockade; the doctrine of continuous voyages; the destruction of neutral prizes; unneutral services and hostile assistance; the transformation of merchantmen into war-vessels on the high seas; the question of nationality or domicile as determining the character of enemy property.

The most valuable and important work of the conference was done in connection with the law of contraband and blockade. The vexed question of the classification of contraband was settled by dividing material objects into four classes—those which are conditionally contraband; those which shall never be considered contraband; and those which may be made contraband by special

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declaration. The problem of the doctrine of continuous voyage was settled by deciding that the principle by which the entire traject of the contraband articles is taken as one continuous route shall apply only to articles which are absolutely contraband. To articles conditionally contraband, the doctrine of continuous voyage does not apply, except in cases in which the enemy country does not have a maritime frontier. With respect to the law of blockade, the principle of the declaration of Paris was reiterated and strengthened. Notice of blockades is required and it is provided that the seizure of vessels for violation of a blockade can only be effected within the radius of action of the war-vessels charged with making the blockade effective. The adequateness of the blockade is to be strictly judged of by the court. It was not possible to arrive at any agreement upon the question of nationality and domicile as determining the enemy character of property. Nor was the question of the legality of the transformation of merchantmen upon the high seas settled by the conference.

The results of the conference assure a far greater definiteness of the rights of neutrals. The belligerent still retains the power to protect himself fully against efforts to supply his opponent with war materials, but he can no longer proceed in an arbitrary manner. His action must be taken in accordance with definite rules and he must give due notice of his intentions. He is no longer permitted to give his rights an arbitrary and irrational extension. This branch of the science of international law has thus been provided with a definite basis upon which there may be constructed a system of rules and precedents which will normalize commercial intercourse in times of war. The conference was characterized by a most commendable spirit of compromise and the solutions which it developed are notable for their lucidity and practical character.

A most important suggestion was made by the American department of state in a circular note addressed to the powers, which was sent out towards the end of the year. The note suggested in substance that as the Hague conference had established a per-

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manent tribunal in the court of appeals for prize cases, and as a large number of general arbitration treaties had been made; as moreover the purpose to establish a permanent court of arbitration had been definitely expressed at the Hague Conference and had been deferred only because unanimity could not be reached as to the composition of the court; it was therefore both in accordance with the expressed will of the nations and with the institutions and conventions already created that the court of appeals in prize cases might by a special agreement between the nations be constituted a general court of international arbitration. Should this suggestion be accepted by the powers, a great step in advance would be taken in the matter of assuring the regularity of international relations; the simplicity of the solution ought certainly to recommend the plan to the powers.

### OTHER INTERNATIONAL CONFERENCES

Numerous other international conferences took place in the year 1909, in many of which states were represented by their official delegates. It would lead too far to attempt an account in this place of the action of these various international unions of public and semi-public character. Some of the more important meetings, however, will be reviewed in order to give an idea of the scope of these international activities.

A conference took place in October at Paris at which delegates from eighteen countries were represented, for the purpose of elaborating an international code of regulations for motor cars. The convention adopted deals with conditions to be fulfilled by automobiles and by their drivers, the granting and recognition of international road certificates, the identification of cars, warning signals, and the position of sign posts on the public roads. This convention is a good example of the character of those common interests which can be effectively dealt with only upon an international basis. An international conference on maritime law convened at Brussels on September 30. It considered and prepared a draft convention upon the subject of collisions at sea and salvage.——A conference representing twenty-four govern-

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ments met at London in November for the purpose of preparing a map of the world upon a uniform system with a scale of sixteen miles to the inch. The program of the conference had been adopted by the International Geographical Congress in Geneva in 1908. The conference considered only technical questions of map-making.

The international opium commission met at Shanghai in January, 1909. The countries represented were the United States, Great Britain, Germany, France, Russia, Turkey, China, Japan, The Netherlands, Portugal, Siam, and Persia. Bishop Brent of the American delegation was elected president of the commission. The commission received reports upon the use of opium and the control of opium culture and smoking in the various countries represented. The commission did not propose any treaty arrangements, but its final resolution adopted February 26 contain the following suggestions: That it is the duty of all countries to adopt reasonable measures to prevent the departure of shipments of opium to any country which prohibits its entry; that drastic measures should be taken by each government in its own territories to control the manufacture, sale, and distribution of the drug; that all governments possessing settlements in China shall take effective action toward the closing of opium divans in the said settlements.

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# THE GERMAN DOCTRINE OF THE BUDGET

WALTER JAMES SHEPARD

The evolution of parliamentary government in Germany proceeds apace. The virtual admission of Chancellor Bülow, on the occasion of the publication of the Kaiser's interview with the retired English diplomat in October, 1908, that the government's defeat by the reichstag would necessarily involve his resignation will be at once recalled. This promise has been now actually fulfilled, and that suave and genial statesman's retirement, upon the defeat of his budget, advances Germany one step farther toward a modern system of ministerial responsibility to the people's representatives. The appointment of a successor who promises a continuation of Bülow's policy indicates that there are other important steps yet to be taken, but does not obscure the significance of this change of ministers. Within no distant period it is altogether likely we shall see a full-fledged system of political ministerial responsibility to the legislature, with its corollary of effective votes of lack of confidence,—a system in which the reichstag will control the appointment of the incoming ministers as well as force the resignation of those with whom it is no longer in accord. It may therefore not be without a timely interest to review the German doctrine of the budget as a means of control over the executive.

No principle of constitutional law is more solidly established, or securely rooted in the general consensus of the English nation, than that which attributes to parliament, and particularly to the house of commons, a right to enforce its will upon the executive by means of its control over the finances. Budget-control has always been in England a chief sanction of ministerial responsibility. Since the parliaments of the seventeenth century wrested concession after concession from the Stuart kings by withholding supplies, there has been no question as to the financial proposals affording a most potent

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instrument for enforcing the responsibility of ministers to parliament, and for insuring parliamentary domination in the government. Nor has the use of this agency of control ever been viewed as unjustifiable or beyond the competence of parliament. That an entirely different doctrine has grown up in Germany, in spite of the fact that the imperial and state constitutions expressly confer upon the legislative bodies the right to pass upon the budget, may not be surprising in view of the autocratic character of its governments; the nature of this constitutional theory is, however, probably unfamiliar to most students who have not made a special study of German constitutional law. In its subtle and refined distinctions it illustrates very well the general character of German jurisprudence.

Budget-control operates as a sanction of ministerial responsibility in two ways. The first is the refusal, or threatened refusal, of the legislature to vote the budget, or, in the era before a comprehensive, all-embracing budget has been developed, to vote the taxes and appropriations which are necessary for the maintenance of government. This power to dead-lock the wheels of government by refusing supplies is the primary and original form of budget-control. It is the ultimate financial sanction of ministerial responsibility. The second form of budget-control is normally a development of the first. It comes into play only after the evolution of the budget in its technical completeness, and ordinarily only when responsibility to the legislature is a thoroughly established and well-recognized principle. It consists of the criticism, the amendment, the rejection of single items, of new credits, or of new taxes by the legislature. In countries like England, France and Belgium, where ministerial responsibility is no longer a contested principle, it is only this second form of budget-control that is employed. It is never necessary actually to refuse to pass the budget; the knowledge that this power remains in reserve is always sufficient to compel ministers to give way before the determined opposition of a majority in the legislature. Like impeachment, budget-refusal has become practically obsolete; they both remain none the less important ultimate guarantees of ministerial responsibility.

In Germany the evolution has been different. Budget-refusal is not looked upon as a legitimate or constitutional instrumentality

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of parliamentary control of the administration. Strangely enough, the second form of budget-control is exercised continually without the primary form, of which it is only a development, being recognized as permissible. The relation of the German doctrine of the budget to the belated evolution of constitutional government in the Teutonic empire,—to the delay in the development of a modern system of ministerial responsibility,—is both that of cause and effect.

The provisions with regard to taxation and appropriations in the German constitutions have been partly determined by the traditions of the period of the "estates state," partly copied from the French and Belgian models. The law of the southern and middle German states, which adopted constitutions early, recognized at first merely a "*steuerbewilligungsrecht.*" An absolute control over all income was not given, since the medieval theory was adhered to that the grants of the "estates" were merely to supplement the ordinary revenues of the prince which required no legislative sanction. As in the "estates state," a committee of the landtag was in some cases associated in the administration of the treasury. In all the constitutions it is required that a periodical budget be laid before the estates. In the constitutions of the year 1848 or later, Belgian and French models were followed, and the principle of complete parliamentary control more definitely enunciated. The Prussian constitution of 1850 declares (article 99): "All income and expenditure must be estimated for each year in advance, and be included in the state's budget. This is annually adopted by a statute." Another article (article 100) provides that "Taxes and requisitions for the state's treasury may only be raised so far as they are included in the state's budget or provided for by special statutes." The imperial constitution (article 69) contains a similar provision: "All income and expenditure of the empire must be estimated for every year and included in the imperial budget. This is annually adopted before the beginning of the budget-year by statute."

If in Germany the "estates state" theory of the budget has largely influenced the modern conception of that institution,[1] ideas derived

[1] Thus Adolf Wagner (*Finanzwissenschaft*, 3te Aufl., 1883, p. 70) characterizes the government in the proceedings in connection with the budget as "Partei des Angebotes" and the parliament as "Partei der Nachfrage."

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from the period of monarchical absolutism have also had a very important effect upon its development. In spite of the broad guarantees contained in the Prussian and the imperial constitutions, parliamentary control over the finances is very far from complete. In this, as in some other respects, Germany appears to have adopted the democratic institutions of her western neighbors before she was quite prepared, and the result is a somewhat lengthy period of adjustment in which the actual practice of the government does not conform strictly to the norms of the constitution, but displays many features which hark back to previous epochs.

As a sanction for ministerial responsibility, parliamentary control of the budget broke down completely in Prussia in the years 1862–1866. The history of the so-called "Conflict" is familiar. The necessity of in some way harmonizing the Prussian government's conduct in this period with the plain prescriptions of the constitution was the original occasion for the elaboration of a theory of the budget, which, in its ingenuity and subtlety, is thoroughly characteristic of German scholarship, but which will not generally appeal to the more practical minds of English and American students. Rudolf von Gneist is the originator of this constructive interpretation of budget-law. His views have been followed in the main by most German writers including Laband, Jellinek, Rehm and Seidler, and there can be no doubt that they express the official position. Few questions in the entire field of German constitutional law have been the subjects of so wide a discussion or so considerable a literature.[2]

The foundation of this theory is laid in two distinctions which in

[2] Among the most important discussions on this subject are the following: Seidler, *Budget und Budgetrecht*; Fricker, *Die Natur der Steuerverwilligung und des Finanzgesetzes*, in *Zeitschrift für Staatswissenschaft*, xvii, 636–702; Fricker, *Gesetz und Budget*, in *Zeitsch. für Staatsw.*, vol. l, pp. 381–409; Conrad, *Hanwörterbuch der Staatswissenschaft*, articles "*Budget*" and "*Budgetrecht*;" Gneist, *Gesetz und Budget*; Gneist, *Budget und Gesetz;* Rehm, *Allgemeine Staatslehre, pp.* 266–306; Lasker, *Beiträge zur Verfassungsgeschichte Preussens*, ch. vii, sec. 5; Bluntschli, *Staatsrecht*, Book ii, ch. x; Jellinek, *Gesetz und Verordnung*, pp. 130–180, 276–312; Laband, *Zur Lehre vom Budgetrecht* in *Archiv für offent. Recht*, vol. i, pp. 172–196; Arndt, *Budget, Gesetz und Verordnung*, in *Annalen des deutschen Reichs*, 1891, pp. 225–234; Redlich, *Recht und Technik der modernen Parlamentarismus*, pp. 721–730; Esmein, *Droit Constitutionnel*, 4 ième ed., pp. 835–836, and Lebon, *Staatsrecht der französischen Republik*, pp. 160–161.

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Germany are generally recognized as very fundamental. The first of these is between law and ordinance; the second between material and formal governmental acts, whether laws or ordinances. Thus a fourfold classification of acts of government results, viz· material laws, formal laws, material ordinances and formal ordinances. The qualifying adjective "material" refers to the content of the measure, describes its real essential character. The adjective "formal" describes the outward and external form which it bears. A material law is an act of government which embodies some general norm or rule of conduct; a material ordinance is one which applies a general rule in particular cases, or provides the machinery for the application of the general norm. The formulation of material laws is legislation, that of material ordinances is administration. Were the doctrine of the separation of powers adhered to strictly in practice, all material laws would be enacted in the form of statutes, while all material ordinances would be issued as acts of the executive. This is not the case, however. Many broad and general rules of conduct,—material laws, in other words,—emanate from the administration and bear the outward form of ordinances; while many statutes, i. e., formal laws, contain specific applications of general norms and are materially only ordinances. Let us illustrate this from the governmental acts of the United States. The establishment of the principle requiring competitive examinations for the civil service, particularly for the consular and diplomatic services, has been effected chiefly by executive action, yet that principle is essentially a broad and general rule of law. It is legislative not administrative in character. Materially it is a law, formally it is principally contained in ordinances. The conferring of a pension upon an individual, on the other hand, is materially an administrative act, an ordinance, although formally it may be embodied in a statute.

The connection of these rather subtle and artificial distinctions with the sanction of budget-control lies in the fact that most German writers regard the budget as only formally a law; materially, they insist, it is an ordinance.[3] It embodies no general norm or rule of

[3] An incident occurred in Italy in 1893 which indicates that there the same distinctions are recognized as in Germany, and that the budget is considered strictly an administrative act, not a law. On May 19, 1893, the chamber of deputies re-

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conduct, no broad principle of action. It is merely the government's financial estimates and proposals for the ensuing fiscal period. It contains masses of figures concerning the details of expenditure and sources of revenue. It does not require promulgation and publication as do material laws. It is administrative in character. It provides the wherewithal for carrying on the government. The constitutions of most modern states require that it shall be enacted in the form of a statute; this certainly makes it formally a law, but cannot change its content or material character which is that of an ordinance.

The significance of these distinctions is seen when it is understood that the German school assert that a merely formal law cannot repeal or nullify an act which is both materially and formally a law. The latter embodies a general norm or broad rule of action. Its repeal or nullification amounts to the establishment of another norm or rule in its place. If congress has enacted that all railroads doing an interstate business shall be subjected to control and regulation by the interstate commerce commission, it establishes thereby a broad rule or norm for future action. The repeal or nullification of such a law is tantamount to the establishment of the opposite principle. If it be conceded that the budget by omitting to appropriate for the interstate commerce commission thereby nullifies the previous law it is itself a material law because it establishes by that repeal the opposite rule. But we have seen that the budget is not a material law, hence the conclusion is forced upon us that the budget cannot repeal or nullify material laws. By its very definition, as materially an ordinance, the budget is incapable of annulling material laws.

The refusal of the legislature to vote the budget does not, it is maintained, put an end to previous laws which depend for their execution upon financial support. These previous laws are the result of a consensus of the different organs of government to which the legislative power has been confided,—usually the two chambers and

jected the budget. This would have apparently involved the most serious consequences since the constitution (article 56) forbids the reintroduction of projects of law which have been defeated during the same session. It was observed, however, that this did not apply to the budget, which was strictly an administrative act, and accordingly it was again submitted to the chamber. Cf. Esmein, *Droit Constitutionnel*, 4 ième ed., p. 835, *note*.

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the head of the state. A refusal of a single organ, the lower chamber, to assent to the budget cannot effect a repeal of these established laws. Only the same consensus of all the organs which possess a share of the legislative power is effectual to annul a law. It is a well-established principle that a law can only be repealed by the authority by which it was enacted. Enacted by the two chambers and the head of the state, it cannot be repealed or nullified by a single chamber through its refusal of the necessary credits.[4]

The passing of the budget, containing the necessary credits for the execution of the laws and the maintenance of the government, is a duty of the legislature which it must not fail to perform. It is permitted to criticise, propose amendments, object to single items, or refuse new credits or taxes; but to refuse to pass the budget entirely, or to leave any single branch of the government unprovided for, is, in Gneist's words, an "*actus inanis.*" The modern legislature is not the medieval "estates" to whom the king is compelled to come petitioning for an aid. It is itself one of the coördinate organs of government endowed with duties as well as rights. One of its most important functions is to procure the money necessary for the maintenance of every branch of the government. If it fails in this duty it is derelict; if it neglects to perform this function it is culpable. It may not use the power which it possesses over the budget to wrest concessions from the administration or to enhance its own position in the state. Budget-control, it is asserted, is not a sanction for ministerial responsibility, except in the limited secondary sense that criticism and rejection of governmental proposals for new taxes and new credits make it such. Innovations it may legitimately oppose; it cannot wrest the budget from its real purpose of affording the gov-

[4] The question whether an ordinary law may be repealed by omitting to provide for it in the budget arose in France in 1885, when the chamber of deputies failed to provide in the budget for the maintenance of the Catholic Theological Faculties which had been established by the law of 1806 and the decree of 1808 founding the University. The senate objected to this omission on the grounds above discussed, but eventually accepted the budget. The discussion at this time left it generally clear that the law upon which the Faculties rested was not repealed by withholding of financial support, and that it only required a future inclusion in the budget to make it again thoroughly effective. The practical effect, however, was to annul the old law for the time being. Cf. Lebon, *Staatsrecht*, pp. 160–161.

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ernment a well-ordered scheme of finance for the ensuing fiscal period to serve as a lever to compel the ministry to resign. Gneist says:[5] "Eine Verweigerung des Budgets in Bausch und Bogen wird also 'unconstitutionell' und rechtlich unwirksam anerkannt." Jellinek[6] maintains the same view: "Die Ablehnung des Budgets, die Streichung gesetzlich fixirter Ausgaben, die Nichtanerkennung der zur Deckung derselben notwendigen Summen ist kein legales Mittel zur Erreichung politischer Zwecke, keine gesetzliche Waffe, um ein Ministerium zu stürzen, auch keine von der Rechtsordnung erlaubte Form, in der ein Mistrauensvotum geaüssert werden darf."

What, it may be asked, happens when the legislature nevertheless does refuse to vote the budget? Upon this question a difference of opinion exists. Laband attempts to bridge the hiatus which such an eventuality produces by juristic deduction. He maintains that constitutional law is a complete whole and can have no voids or vacuums. What is not provided by statutory prescription must be filled by juristic construction. There must be a legal solution for every constitutional difficulty. In this case the constitution requires the passage of the budget. If it is not passed, laws already in existence are in no wise repealed, and the income and expenditure which they entail do not lapse but continue as before. The government is responsible for the due execution of all existing laws, and its collection of taxes and appropriation of revenues to these ends are perfectly legal. It must be careful not to overstep the actual needs which these laws occasion. No new taxes or credits are permissible. But within the limits of existing law the measures which it finds necessary are entirely legal.

Jellinek does not accept the theory of the completeness of constitutional law. He maintains that situations may arise when a status of fact supervenes upon a status of law, and that it is folly to try to find legal principles upon which they can be resolved. A budget, he considers, only a financial plan; one cannot speak of an administration without a budget; every government must have a budget. When the legislature has refused to approve it, the budget is simply executed unconstitutionally. For conflicts such as that in Prussia in

[5] *Gesetz und Budget*, pp. 106, 107.
[6] *Gesetz und Verordnung*, p. 289.

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1862–1866, there is no legal but only a historico-political solution. The justification of the acts of government, in such circumstances, does not arise from their legality but from their necessity. The constitution presumes a harmonious coöperation of the executive and legislative branches in the passage of the budget; when this does not exist, whatever the cause, a status of fact occurs. The government must be carried on; the life of the state cannot be interrupted. Consequently such conflicts become questions of supremacy, "*Machtfragen.*" The party possessing the predominant power imposes its will upon the other. Only retrospectively, by an act of indemnification, can such proceedings be legalized.

Some of the continental constitutions make a partial provision for the eventuality of the budget not being voted. The Prussian constitution provides (article 109) that "The existing taxes and duties shall continue to be raised. . . . until they are altered by law." This clearly permits the collection of the taxes, but there is no constitutional warrant for the spending of the money thus obtained except as provided in the budget. This same provision is found in the Austrian constitution. In some other states (Saxony, Oldenburg) it is provided that in case of a conflict which threatens the passage of the budget, the questions at issue shall be submitted to a superior court. The Swedish constitution provides (section 109) that if the riksdag has neglected to vote the budget the taxes and appropriations of the previous financial period shall continue in force. This provision has found great favor among German writers.

The prevailing view in Germany, it is evident, limits budget-control as a sanction of ministerial responsibility to the second or milder mode of its application. It is denied that refusal to vote the financial law ever constitutes a legitimate method of bringing a recalcitrant ministry to terms. But it must be evident that if the ultimate sanction of refusal to pass the budget is not permitted the developed secondary sanction of criticism and amendment will be of little use. If the ministry and the legislature are both aware that a refusal of the budget in a form acceptable to the ministry is quite out of the question (and if it does occur, the ministry are justified in collecting taxes and making expenditures without legislative grant), what weight or force will legislative criticisms or proposals carry?

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The value of the second form of budget-control as a sanction depends upon the recognition of the predominance of the legislature and of the responsibility of the ministers to it. To this point in the evolution of constitutional government Germany has not yet attained.

It is entirely beside the mark when German writers assert that in Great Britain the refusal to vote the budget is altogether unknown.[7] It is true that "now the weapon lies rusty in the armory of constitutional warfare."[8] In 1781 a proposal to delay supply for a few days in order to extort from Lord North a pledge regarding the war in America brought forth the admission that since the Revolution of 1688 no such proposal had been made. Again in the same session Lord Rockingham proposed to postpone supply until explanations of the causes of Admiral Kempenfeldt's retreat had been given. In neither case, however, did the commons feel that the welfare of the state ought to be hazarded, and the credits were accordingly voted. In 1784 it was feared for some time that the house of commons, under Fox's leadership, would actually refuse to pass the annual appropriation bill, and it was in fact delayed for a time, but as May says, "The precedent of 1784 is the solitary instance in which the commons have exercised their power of delaying supplies." In this case the budget was indeed finally passed, so Todd[9] is right in the statement that "the undoubted right of the commons to withhold supplies from the crown has not been exercised in a single instance since 1688." But though fallen into disuse, refusal to pass the budget is still in Great Britain an ultimate sanction. Like impeachment, it is never resorted to because its work in making ministers responsible to parliament has been performed, and the ordinary control over their administration can much better be secured by milder agencies. In Germany, where ministerial responsibility has not yet become established, there is still need for the exercise of this ultimate sanction.

[7] Thus Gneist (*Gesetz und Budget*, p. 117) says: "Das Resultat unserer Untersuchung ist, dass ein selbständiges Ausgabebewilligungsrecht welches man aus der Englischen Verfassung abgeleitet und als Eckstein aller Rechte der Volksvertretung bezeichnet hat, in England überhaupt nicht besteht."

[8] May, *Constitutional History*, 1891 ed., pp. 72, 442, 443.

[9] *Parliamentary Government*, Walpole ed., p. 125.

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In France, as in Great Britain, the prevailing opinion is that refusal to vote the budget is a legitimate and proper sanction of ministerial responsibility. Lebon declares:[10] "The right appertaining to the legislature of refusing the budget entirely or in part is beyond question, and, since the budget is an annual law which must first be accepted by the lower chamber, this body is in general, through the decision which it takes in this matter, mistress of the fate of the ministers." The same opinion is expressed by Esmein,[11] as follows: "Elle [the budget] n'a pas en effet pour but principal une saine et bonne économie; elle ne vise pas principalement à faire de l'État un bon père de famille, qui tous les ans établit ses recettes et ses dépenses pour l'année suivante. Elle est surtout la bride avec laquelle les Assemblées représentatives tiennent le pouvoir exécutif à leur discrétion, ou plutôt la défense efficace qu'elles ont contre ses empiétements possibles . . . . . Sous le gouvernement parlementaire, la menace d'un refus du budget est la sanction naturelle et dernière de ses règles conventionnelles."

In Germany the contest between crown and legislature has not been fought out to a finish. The crown still holds a position of predominance. In the one great contest in which budget-control was invoked the physical force was not with the parliamentary party and the crown's ministers were not only able to carry on the government, but to secure in the end an interpretation of budget-law which would make it completely innocuous. The opposite interpretation was maintained by Lasker, the leader of the opposition to Bismarck in the Conflict of 1862–1866, with great vehemence and cogency; but the course of events was too strong in the other direction. If, as seems likely, Germany is on the threshold of another great contest for parliamentary domination, we may expect to see the subtle and somewhat fantastic theory of the budget, which has hitherto commended itself to the majority of German jurists, beaten into new shape more conformable to modern ideas of parliamentary government.

[10] *Staatsrecht*, sec. 93.

[11] *Droit Constitutionnel*, 4 ième ed., pp. 835, 836. 841. Cf. also pp. 143, 144.

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# NOTES ON CURRENT LEGISLATION

CONDUCTED BY HORACE E. FLACK

**Ballot Laws.** Several rather important changes in the ballot laws of the states were made during the legislative session of 1909. Connecticut: which up to the present year had retained the system of unofficial ballots, separate for each party, combined with a system of official envelopes, adopted a blanket or Australian ballot of the "party column" type. This leaves only five states—Georgia, Missouri, New Jersey, North Carolina and South Carolina—and one territory, within the United States proper,—New Mexico—which have not yet adopted a blanket, official ballot. (In Missouri, New Jersey and New Mexico the ballots are official, but are separate for each party.) Moreover, this year North Carolina took the first step in the direction of ballot reform by adopting the Australian ballot for use in one county—New Hanover. Primary reform in North Carolina starting with one or two counties, has spread rapidly to others, and possibly ballot reform will follow the same course.

Oklahoma, which in 1890 adopted the "party column" form of ballot, in 1897 changed to the "Massachusetts" form, and in 1899 changed back again to the "party column" ballot, has changed this year for the third time, and again adopted the "Massachusetts" form.

Wisconsin passed a law permitting the county board of any county to adopt, for use at general elections within the county, a "coupon ballot" similar to that proposed for state-wide use in 1905, and rejected by popular vote in April, 1906.

The new Australian ballot law in Connecticut (P. A. 1909, ch. 250) follows rather closely, so far as concerns the form of ballot, the law of New York. As mentioned above, the ballot is to be of the "party column" type, with special circles for voting a straight party ticket. The several columns are to be arranged in such order as the secretary of state may determine, precedence, however, being given to the party which polled the largest vote for governor at the last preceding election, "and so on." There is also to be a blank column for writing in names of candidates not printed on the ballot. The ballots are to be provided with detachable stubs, consecutively numbered, which will serve to

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identify them until the stubs are torn off just prior to the deposit of the ballots in the ballot-box. On the back of each ballot will be printed the usual official endorsement. Whenever constitutional amendments or other measures are submitted to popular vote they are all to be printed on the general ballot by designations prescribed by the secretary of state, once in a column in which the word "yes" appears under each amendment or measure, and again in a column in which the word "no" so appears. A cross in the circle at the head of the first column will count as a vote for, a cross in the circle at the head of the second column as a vote against, all of the questions submitted; but they may also be voted on separately by crosses in the individual voting squares opposite the designations of the several measures. Nominations made by any "caucus, convention or meeting" of any political party or "organization of electors" are to be certified to the secretary of state, or, in the case of local nominations, to the clerk of the town, city or borough, and only the names of candidates thus certified are to be printed on the ballot. The official ballots are to be obtainable by the voters only at the polling places, on election day, and from the election officers. Official envelopes are done away with. The law also contains the usual provisions of the Australian system for the preservation of the secrecy of the ballot.

The North Carolina law applying to New Hanover County (P. A. 1909, ch. 867) also follows to some extent the ballot law of New York. It provides for an official, blanket ballot of the "party column" type, with special circles for voting a straight party ticket. The party which polled the largest vote at the last preceding general election is to be given the first column at the left of the ballot, and at the extreme right there is to be a blank column for writing in names. Detachable stubs, consecutively numbered, are provided for, and in addition each ballot is to be initialed on the back by one of the election officers before its delivery to a voter. Constitutional amendments are to be printed on the general ballot. The law as at first enacted prescribed no penalty for a violation of some of the most important provisions in regard to the secrecy of the ballot, but this omission was remedied by an amendment later in the session (P. L. 1909, ch. 919). The law applies not only to general, but also—so far as its provisions are appropriate—to primary elections, which, in New Hanover, are direct.

The amendment to the ballot law of Oklahoma (L. 1909, ch. 16, art. 1) provides that the official ballot for general elections shall be of the "Massachusetts" form. The county election board furnishing the ballots is to have "power to classify the names of candidates for each office

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in each group in such a manner as they may deem proper," but no special arrangement of the candidates' names under each office is provided for in the act itself. The ballot is to contain "no emblem or party device," nor the name of any political party. This variety of "Massachusetts" ballot is common in the Southern States, being found in Florida, Mississippi, Tennessee, Virginia and certain counties in Maryland.

The Wisconsin law above referred to (L. 1909, ch. 545) is interesting as permitting the adoption on a form of ballot never before tried in any state.[1] The idea was proposed in Wisconsin by Mr. Moncena Dunn of Marshfield, and was embodied in an act (L. 1905, ch. 522) passed by the legislature in 1905. This act, which was to go into effect only if approved by popular vote, made the use of the new form of ballot mandatory for the whole state. The question of its adoption was submitted to the people in April, 1906, and, as mentioned above, it was rejected. It has now been reënacted with certain changes, and its adoption has been left optional with the county boards of the several counties. The ballot is to be composed of a number of different colored sheets of thin cardboard, one for each party "legally entitled to a party designation upon the official ballot," and one for independent nominations. These sheets are to be so stapled together that a portion of each sheet, on which is to be printed the party name or political designation, shall be left visible at the head of the ballot, and the several sheets are to be so rotated that, as nearly as possible, any one party sheet shall appear in the top position on as many ballots as each of the other party sheets. Each sheet is to be divided by lines of perforation into as many detachable coupons as there are offices to be voted for (except that the names of the presidential electors of each party, accompanied by those of the party candidates for president and vice-president, are all to be printed on one coupon)—so that each coupon shall contain the title of one office

[1] The only similar proposal of which the writer has heard was one embodied in a bill submitted to the New York legislature in 1905 by the Election Laws Improvement Association of New York City. This bill, which was never very seriously considered by the legislature, provided for a ballot of the "Massachusetts" form, but divided by lines of perforation into as many detachable coupons as there were officers to be voted for—each "office group" being printed on a separate coupon. The ballot was to be marked and voted in the usual way, but in counting the vote the election officers were to detach the several coupons and count them separately, the general object being to prevent any mark or mutilation on one part of the ballot from rendering void, or voidable, any of the other portions thereof.

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and the name of the party candidate (or candidates) therefor. Constitutional amendments and other questions submitted are not to be printed on the coupon ballot, but on a separate ballot as at present provided.

On entering the polling place, each voter is to be given, in addition to his ballot, an "official ballot folder" and a "remainder envelope." The former is to be constructed with as many pockets on the inside as there are coupons on any one sheet, is to be of such size and shape that a whole sheet, folded once, may be enclosed therein and is to be provided with a gummed flap so that it may be sealed in such a way as to conceal its contents. The "remainder envelope" is also to be provided with a gummed flap, so that it may be sealed, and is to have a pocket on the opposite side so arranged that the "official ballot folder" can be inserted therein and a flap sealed down over it without entirely covering it. Before delivering the ballot, folder and envelope to a voter, the ballot clerk is to attach to the back of the ballot, at the top (in such a way that it will protrude from the "remainder envelope" after the ballot has been inserted therein) a double "check-label," on both parts of which he is to write the voter's name and number. The clerk is then to detach one part of this "check-label" and keep it, the other part remaining on the ballot until the same is returned by the voter. The object of this device is the same as that of the detachable numbered stub employed in a number of states, i. e., to ensure that the ballot returned by a voter shall be none other than that given to him by the election officers.

The voter is to prepare his ballot in the voting booth in the following way:

If he wishes to vote a "straight party ticket," he is to tear off the proper sheet and enclose it, entire, in the "official ballot folder."

If he wishes to vote a "split ticket," he is to detach each coupon containing the name of a candidate for whom he wishes to vote and place it in the appropriate pocket on the inside of the "official ballot folder."

In either case he is to enclose all the unused portions of the "coupon ballot" in the "remainder envelope."

In case the voter wishes to vote for one or more persons whose names are not printed anywhere on the "coupon ballot" he is to be provided by the ballot clerk, upon request, with a blank sheet of paper, is to write thereon the name of each such person and the title of the office to which he is to be elected, and is to fold and cast such ballot by itself, keeping it entirely separate from the "coupon ballot," "official ballot folder" and "remainder envelope." This arrangement seems hardly calculated to preserve complete secrecy, since it will always make it possible

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for the inspectors to tell whether or not a voter has voted for anyone whose name is not printed on the ballot.

After leaving the voting booth the voter is to hand the "remainder envelope," unsealed, to the inspectors, and the latter are to remove from the unused portion of the ballot, without examining the same, the duplicate half of the "check-label" which remains attached thereto, and to compare this half with the half previously retained by the ballot-clerks. If the two halves correspond, the voter is then to seal the "official ballot folder" and the "remainder envelope," in view of the inspectors, and to return them both. On receipt of the same the inspectors are to place the "official ballot folder" in the pocket provided on the face of the "remainder envelope," seal down the flap over the enclosed folder, and deposit the "remainder envelope" in the ballot-box.

When all the envelopes are taken from the ballot-box, and before the votes are counted, each "remainder envelope" and the corresponding "official ballot folder" fastened to it must be marked with the same number so that they may afterwards be identified as belonging together.

In counting the ballots a detachable coupon is always to be given precedence, as an indication of the voter's intention, over an entire sheet (in case both are enclosed in the same "official ballot folder"). If two or more coupons for the same office are enclosed, the ballot is to be counted as a blank so far as this office is concerned.

Whatever advantages this new form of ballot may possess, it seems likely to prove somewhat complicated for the average voter—and, for that matter, for the average inspector! It will be interesting, however, to note the result of the experiment, in case any of the counties decide to try it.

Among the acts and amendments relating to ballot laws adopted in other states, may be mentioned the following:

In New York (as part of a general statutory consolidation) the whole election law was rearranged in more compact and systematic form and re-enacted as chapter 17 of the Consolidated Laws (L. 1909, ch. 22).

In Alabama it was provided (Acts 1909, No. 110, p. 277) that "the name of each candidate shall appear but once on the ballot, and under only one emblem." The effect of this provision, in conjunction with the "party column" form of ballot, is to render a successful "fusion" campaign vastly more difficult.

In Massachusetts, where the use of voting machines had been declared unconstitutional by the Supreme Judical Court in 1907 (Nichols v. Board of Elections, 196 Mass., 410), a constitutional amendment ex-

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pressly permitting their adoption was passed for the first time by the legislature. It will have to be passed again in 1910 and submitted to the people before it becomes part of the constitution of the state.

ARTHUR LUDINGTON.

**County Health Commissioners.** By a law of 1909, the Indiana legislature abolished the county boards of health, and all matters of public health are now under the control of a county health commissioner. This law is a substitute for an earlier one which, on a technicality, was declared unconstitutional. After January 4, 1910, only those persons are eligible to the office of health commissioner of county, city, or town, who have passed an examination prescribed by the state board of health, or who have had recent experience in the office. Applicants for examinations are to be licensed physicians, except in special cases when the state board declares others eligible to take the examinations. The county health commissioner is to receive an annual salary of one and one-half cents for each person in the county.

The same law gives the state board of health power to make sanitary inspections in all parts of the state, as well as in public institutions and buildings. This power is extended to private property, due notice having been given of such inspections.

The board may prescribe and regulate the character and location of plumbing, water-supply, drainage, lighting, sewage, ventilation and heat of public buildings and institutions. Violations of rules laid down by the state board for the control of local boards of health are punishable by fines of from five to fifty dollars.

LORIAN P. JEFFERSON.

**Legislative Investigations.**—An examination of the efforts being made this year by legislators to learn the facts upon which to base legislative action will result in increasing confidence in the ultimate success of our system of law making. Careful investigation and correct analysis are the bases of good government. The more carefully investigation is done and the more closely analysis determines the real facts, the more nearly will our statute law approach the ideal fitness of the common law. We hear many well warranted complaints about hasty legislation. Laws are enacted without even a pretense of investigation of their merits and ultimate effects. A striking example of this is shown in the two cent fare craze which swept over the country in 1907. In not

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a single state was such legislation preceded by a legislative investigation to determine whether two cents was a fair and equitable rate. The Wisconsin railroad commission did make such an inquiry and came to the conclusion that a two and one-half cent rate limit could reasonably be imposed. The legislature of that state, however, cast this investigation to the winds and decreed that two cents should be the limit. Acting on sound principles, Governor Hughes of New York vetoed the two cent fare bill in 1907 and the five cent Brooklyn Heights fare bill in 1908 because their passage had not been based upon an investigation.

Massachusetts and New York have long been leaders in the matter of expert investigations. Following the English and continental methods of careful inquiry these states have produced reports which have profoundly affected legislation not only in these states but throughout the country. The two most notable investigations which have thus resulted in legislation of national significance are those of the Armstrong insurance committee in New York and the Douglass commission on industrial education in Massachusetts in 1905. The reports of those states abound in material of exceptional value in determining wise legislative action. It is true that not always nor even frequently do such reports result immediately in laws based upon their recommendation. But more and more the spirit of investigation is spreading and if proof were needed it could be found in the enumeration of the special inquiries which are now being made by legislative committees. In this work the states of Massachusetts, New York, Wisconsin and Illinois are now leading. In these states no less than twenty-five matters of widespread interest are being sifted by special committees whose reports will be made at the next session of their respective legislatures. Other states are following in this progressive attention to careful analysis. The efficiency of state legislatures is coming to be judged by their willingness to employ this means of assistance in the complex business of law making. In some cases only legislators are assigned to this work, in others states there are mixed commissions of legislators and experts from the special field to be investigated, while in still other states investigations are made by commissions appointed wholly outside the legislative body. A favorite method also is to authorize an existing administrative officer or commission to make the investigation. This is an efficient method when the matter is non partisan and the officer or commission is non political and expert.

Massachusetts legislators in the session of 1910 will be given reports

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upon several new and important subjects in legislation. The committee on old age pensions which was provided for in 1908 to report to the session of 1909 made a preliminary report and asked authority to continue their work for another year. This was granted and a complete report will be made this winter. A commission appointed by the governor will report on the causes of delay in administering justice in civil cases. Classification of property for purposes of taxation with a view to determine the wisdom of amending the constitution to that effect has been sifted by a commission composed of tax commissioner, bank commissioner and a third member, a tax expert, appointed by the governor. A new field of inquiry has been opened by the homestead commission of Massachusetts which is investigating the feasibility of acquiring and opening lands in the country and of aiding immigration of industrial wage earners from the tenement districts to the end that the ownership of the land shall finally be acquired by them.

Employers' liability and working men's insurance will be understood clearly and a reasonable solution obtained if investigation can do it. Three states have turned the searchlight on this problem, New York, Wisconsin and Minnesota. The Connecticut legislature received a report from a committee on the same subject at the last session. The Minnesota commission is authorized to investigate the particular operation of the laws of other states and foreign countries relating to compensation of employees, to report upon their strength and weakness, and to embody their findings in a bill.

Chapter 234 of the laws of 1909 of Minnesota, in aid of this commission requires casualty, indemnity and employers' liability companies to furnish data concerning injuries and damages in their possession.

The Wisconsin legislature provided for six special joint legislative committees to investigate the subjects of the control of water power by the state, industrial insurance, income tax, additional security for depositors in state banks, state aid to highways and the advisability of using convict labor on the highways, and the supervision and inspection of schools and the reorganization of the whole system of education under one board or commission.

These committees were wisely given the power to investigate any phase of the subjects whether enumerated or not among their powers. The governor was requested to call a special session for the consideration of these reports but at this writing it has practically been determined to let the reports go over to the regular session in 1911.

The legislature of Wisconsin also provided for an investigation of

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night schools and night trades schools by the president of Wisconsin University, director of the university extension department, librarian of the legislative reference department and the superintendent of the Milwaukee public schools.

The trustees of the university were directed to investigate the subject of sororities and fraternities, to determine whether their tendencies are anti-democratic and what substitute student organizations might be provided. The state board of control was instructed by resolution to inquire into the advisability of establishing labor colonies on unimproved lands modeled on the systems in vogue in Holland and Belgium. The tax commission was directed to make a complete investigation of life insurance taxation to determine upon the proper scientific method of such taxation and also to compile statistics of income and expenditures for state, county and municipal purposes.

The Illinois law makers follow closely in this progressive movement for correct information. Students of insurance problems will find valuable data upon the increasingly important problem of fire insurance rates and classification. The Kansas and Texas legislature in 1909 provided for a regulation of the rates and classifications of fire insurance companies.[1] The Illinois method provides for a careful investigation to determine the advisability of such regulation. An Illinois commission is investigating the encroachment upon the public lands along Lake Michigan and other navigable streams.

A commission known as the railroad investigation commission, is established to investigate the physical condition of the railroads of the state, their methods and management with respect to safety of employees, service to public, needs for future development and the relation of the public and the municipalities of the state to the railroad business. This commission is composed of men representing all interests and is required to report their unanimous agreements of changes in the railroad law to the next session of the legislature. The mining investigation in Illinois provided by the last legislature assumes importance in the public eye by reason of the recent mine disaster at Cherry, Illinois. This commission is authorized to investigate the methods and conditions of mining coal with special reference to the safety of life and property and the conservation of coal deposits.

The tax commission of Illinois was directed to inquire into the subject of taxation for state and local purposes and the laws relating to the

[1] See Pol. Sci. Rev. November, 1909, p. 556.

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subject. Their report must be made before January 11, 1911. The important investigation begun in 1907 in Illinois on occupational diseases was continued by the last session as the work was far from complete.

New York has many investigations of vital questions under way. The commission on employers' liability and unemployment is perhaps the most thorough in its scope. Three commissions were created which are of a partisan nature. To forestall the governor's demands for legislation concerning direct primaries, control of telephones and telegraphs, and revision of the charter of New York City, the legislature created three legislative commissions to investigate the several subjects. Unfortunately these commissions were designedly made up of members who were known to be in opposition to the proposed legislation. Their reports will be prejudiced in the eyes of the public from the start.

New Jersey is slowly coming into line in the movement for better knowledge upon which to base legislation. The report on industrial education made to the last session of the legislature was one of exceptional value and the commission was continued for another year to enable it to make a more complete study. Likewise provision was made to carry on the work of the commission appointed in 1908 to investigate the causes of dependency and criminality. Industrial education is a favorite field for investigation at present. In addition to the New Jersey commission and the Wisconsin evening trade schools commission above mentioned, there are three investigations of this subject provided for. Maryland's legislature will receive a report at the session now in progress. The superintendent of public instruction in Maine was directed to make a thorough investigation of the needs of the state of Maine in this respect and Michigan created industrial and agricultural education.

Michigan also created a commission to investigate the subjects of vagrancy, habitual drunkenness, disorderly persons and similar subjects, and to report their findings and any proposed revision of the statutes on those subjects to the legislature in 1911.

Iowa provided for an investigation of drainage, waterways and construction of natural resources in general.

A summary of legislative investigations now in progress would be incomplete if it did not mention the well-known congressional inquiries into the subject of immigration and the monetary system. These inquiries which have been in progress for some time are second to none in the thoroughness of their work. The reports which are now begin-

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ning to appear will make a complete library on the respective subjects. Their recommendations may not find favor at once but their reports will be an open way through the mazes of these subjects. The same may be said of all of the legislative inquiries enumerated. Legislatures may reject them wholly or in part but if they have truly interpreted the principles as they should, they will find favor in popular discussion and eventually in law.

JOHN A. LAPP.

**Libraries.** The field of library legislation broadens perceptibly each year. State libraries, county libraries, municipal libraries, traveling libraries, legislative reference libraries, libraries to preserve archives, libraries for penal institutions, state library commissions and state certification of librarians were some of the library questions which received consideration in the state assemblies of 1909.

The most important item of library legislation of the year is the California county library act. California is the first state wise enough to adopt for the whole state the system of county libraries which, in the last ten years, a few counties in a few states—Ohio, Maryland, Oregon and California itself—have established. Without doing away with the traveling library system although in many communities supplanting or supplementing it, the system of county libraries, it is claimed, is more elastic, less expensive and comes into a closer relation with its patrons. The law provides that county libraries may be established either by the board of county supervisors or that the board may call an election on the subject and if a majority vote for a county library, adopt an ordinance for its establishment. Provision is made for towns to have their choice in the question of joining the county library system and further provision for the town, which after deciding against sharing the benefits of the system, wished to reverse its decision, and it is made possible for a county library to be discontinued in a county so deciding at an election held to consider the question. County libraries are to be under supervision of a committee of three chosen from the county board of supervisors and are to be administered by county librarians with the condition of their certification by the state librarian or the librarian of either the University of California or Leland Stanford Jr. University, provisions being made for a possible future state certification of librarians. Coöperation with other public libraries of the county, including the county law libraries, is a feature of the act. The state librarian is made the head of the county library system. The fund for the county libraries is managed just as any other county

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fund raised for a special purpose. If the tax levy for the year is already made, the supervisors for the purpose of assuring library privileges to county residents may set aside a fund as a county library fund, to be paid to the public library in the county seat, in return for which said library assumes the functions of a county library.

Library interests in Ohio were unsuccessful in their efforts to promote the passage of a bill providing for library examinations and certificates, the latter of two grades, permanent, in which case five years actual experience is necessary; and temporary, for a specified number of years. In the bill the expression "library schools of acknowledged merit" suggests the lack of standardization for library schools. The bill will be re-introduced at the next session. On the other hand, Illinois, after a struggle of years, was sucessful in securing a library extension commission as a department of the state library, a cause of rejoicing to educators, club women and librarians all over the state. Library commissions were also established in North Carolina, Tennessee and Texas.

The Texas commission includes legislative reference work. Montana and Pennsylvania added legislative reference departments to their state libraries. The Pennsylvania law providing for legislative reference is a very comprehensive one. The director of the new department is appointed by the governor by and with the consent of the senate, a new method of appointment in the legislative reference field and one which hints of possible political connections. Section 6, however, emphasizes the non-partisan and confidential nature of the work. The director is given the custody of the law library in addition to his clearly defined duties as legislative reference librarian which include drafting of bills, and receives a salary of $3500 a year, with an assistant learned in the law, at a salary of $2400.

Utah has a novel combination, a state library-gymnasium commission, to promote and maintain free libraries and gymnasiums. The New Jersey law of 1906, requiring the library commission to furnish traveling libraries to the several penal and correctional institutions of the state, was made more effective by an appropriation of $5000, a decided increase over the appropriation of $500 of the previous year. A notable feature of the new Washington act for the establishment and maintenance of public and free libraries and museums is that it removes public libraries from the jurisdiction of municipal civil service, providing instead for each board of trustees to appoint the chief librarian and to adopt a system of competition and examination under which all other appointments are made.

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**Municipal Government—Commission Form.** The new charter of Grand Junction, Colorado, offers another example of the "home-rule" charter embodying the principles of "commission" government. In its general lines it follows the example of the recently adopted charter of Colorado Springs. The "council" consists of five commissioners elected on general ticket for a term of four years. Two or three retire every two years. Municipal elections occur in the odd year. All nominations are non-partisan and made upon petition of at least twenty-five electors. A system of preferential voting is introduced by indicating first, second and third choices upon the ballot.

The council is vested with the usual legislative powers, but no grant of the city's title to any real estate, franchise or right of way may be made except on vote of the people. The manufacture, storage sale or giving away of intoxicating liquors within the city or within a mile thereof is prohibited. Exception is made in the case of storage or gift in private dwellings, "provided such dwelling is not a place of public resort." Sales may be made by pharamacists on prescription under stringent regulations.

Instead of being assigned to departments after election, each commissioner is nominated and elected to the headship of a specific department. The office of mayor is more apparently subordinated than in some other charters from the fact that the commissioner of public affairs is *ex officio mayor*. The departments are denominated,—public affairs, finance and supplies, highways, health and civic beauty, and water and sewers. The departments of highways, and water and sewers present no unusual features. The commissioner of public affairs seems destined to a busy official life. Besides acting as mayor, he has charge of the police and fire departments, is judge of the municipal court, oversees the inspection of building, wiring, heating, and lighting, and supervises all public utilities not owned by the city. Besides the usual duties, the commissioner of finance and supplies performs the work of a city treasurer. He is also the purchasing agent of the city. The commissioner of health and civic beauty is ex officio city clerk, city auditor, and inspector of weights and measures. Significant of the growing appreciation of the the æsthetic in city affairs is this title of commissioner of civic beauty. Besides caring for the parks and shade trees, it is his duty to "supervise the architectural beauty of the city and make recommendations as to the suitable color, style and character of buildings, pavings, sidewalks and other improvements as to him may seem advisable, to the end of improving the city's appearance and beauty."

The commissioners are the only "officers" of the city. All other

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persons in the city's service are termed "employees." Positions in the service of the city may be created or abolished at will by the council. The head of each department nominates and the council appoints all employees except day laborers. Removal is by either a conmissioner or by the council. The existing park commission and public library board are continued without pay. A board of charities and a civil service commission are created likewise without pay. Such positions as the council shall determine are to be filled by appointment from eligible lists prepared by the civil service commission. Employees can be removed only for cause or on unanimous vote of the council. It is further provided that no appointment or removal shall be on account of "any religious or political opinions, or affiliations or political service."

The recall of a commissioner may be brought to a vote of the people upon petition of 20 per cent of the electors voting at the last election for governor. No such petition shall be filed against an officer within three months after he has taken office. A proposed ordinance may be brought before the council upon petition. If signed by 10 per cent of the voters and not passed by the council it may be referred to the people at a special election or if signed by 5 per cent but less than 10 per cent it may be voted on at the next regular election. But one special election may be held in any period of six months.

The granting of franchises is surrounded by the safeguards now prevailing. No franchise may be granted but by vote of the people, nor for a longer term than twenty-five years. The right of making regulations as to rates, provisions for safety, and specifications as to service are reserved to the city.

Upon the whole this charter is less carefully worked out in detail than most of those of recent date. Fewer or less efficient safeguards of public interest are provided in the fundamental law and more is left to the discretion of the council. Its operation in these respects will be followed with interest.

FRANK G. BATES.

**Municipal Charter Revision—Berkeley, Cal.** Berkeley, California, has taken its place among the cities which are trying to improve their municipal government by revising the charters under which they are governed. The constitution of California confers upon the cities the power to draft and adopt their charters, the right being reserved to the legislature to approve or reject the charter as adopted, but without the power of amending it in anyway. In November, 1908, there was elected a board of fifteen freeholders to prepare the charter, among the

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number being Dr. Benj. Ide Wheeler, president of the University of California. The charter as proposed by the board of freeholders was submitted to the people January 30, 1909, and ratified.

The officers under the present charter were elected in May, 1909. The charter embodies many of the features of the so-called Des Moines plan, so that Berkeley now takes its place with those cities which have adopted the commission form of government. It differs in some respects from the Galveston and Des Moines plans. Unlike most of the other cities with the commission form of government, Berkeley has deemed it advisable to make the auditor an elective officer, thereby making him independent of the mayor and commissioners. A special committee of the Illinois senate made a report April 15, 1909, in regard to the commission form of government in the cities of Texas, and in this report the committee condemned the system of having the auditor appointed by the board of commissioners on the ground that the auditing officer should be independent and free from obligation to officials whose books and accounts he is required to audit. The Berkeley charter, framed six months before this report was made, thus overcomes this objection. The mayor and four councilmen constitute, however, the chief governing body of the city, for these five commissioners are both legislative and administrative officers.

The auditor and the commissioners are elected on a general ticket from the city at large. The mayor and auditor are elected for two years and the councilmen for four years, two being elected every two years. In this way, three of the commissioners are elected every two years, so that the people can change the general policies of the administration if they so desire. An effort has been made to eliminate politics from municipal elections, the desire evidently being to place the government of the municipality on an efficient basis. No party or other designation showing the source of the candidacy or support of any officer is allowed on the ballot, and the only method of nomination is by petition. The names of all persons receiving the requisite number of signatures for nomination are to be placed on the ballot in alphabetical order. If no one receives a majority of all the votes cast, then a second election must be held within three weeks, the first election being regarded as a primary election. At the second election, the ballot shall contain twice the number of those to be elected who received the highest number of votes at the first election. It would seem that these provisions make as near an approach as possible to the elimination of partisan politics by legislative action. It will, no doubt, be both interesting

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and valuable to follow the practical working of this as well as the other features of the charter.

The recall idea seems to be gaining headway, for a number of cities have recently incorporated some form of it. Los Angeles has had it in operation for some time and Berkeley is now giving it a trial. A petition signed by qualified electors equal to 20 per cent of those voting at the last election is required to secure a recall election. The petition may request a special election or have the recall election at the next general municipal election. The petition must contain a statement of the reasons for the recall election. The officer sought to be removed shall be deemed a candidate unless he resigns. In the published call for the election, the reasons for demanding the recall must be set forth in not more than two hundred words, the officer being allowed the same number of words in which to justify his course in office.

The mayor is required to employ, for a stipulated compensation, at the beginning of each fiscal year, a certified public accountant, to examine, at least twice a year, the books, records and reports of all officers and employees who receive or disburse city funds. The accountant is to be given unlimited privilege of investigation, including the right to examine under oath all officers, clerks and employees. In addition to the mayor, there are only four executive and administrative departments, as follows: 1. department of finance and revenue; 2. department of public health and safety; 3. department of public works; 4. department of public supplies.

The council shall designate one of their number to be commissioner of each of these departments, and if the council is unable to agree, the mayor is given authority to make such designation.

All principal officers not elected by the people are appointed and may be removed by a majority vote of the council. The council is also given the important power of consolidating and placing in charge of one officer the functions and duties of two or more officers. No officer can be in the employ of any public service corporation or of any person having any contract with the city.

The city is given very wide powers in regard to subjects of legislation. Among these may be mentioned the power to acquire by purchase, condemnation or otherwise public utilities, to regulate, license or prohibit the construction and use of billboards, to license for purposes of regulation and revenue every kind of business not prohibited by law, and to fix the rates of licenses upon the same. Another very im-

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portant power is that to fix and determine by ordinance in February each year the rates to be charged by any person or corporation for water, heat, light, power or telephone service. The council is given the power to establish a civil service commission and to make the rules and regulations for its guidance.

A provision of the charter makes it obligatory upon the council to prescribe uniform forms of accounts to be observed by all officers and departments which receive or disburse moneys. The council is prohibited from making any contract for lighting streets and public buildings for a longer period than one year, and no contract is valid if a higher price is to be paid than the minimum price charged to any consumer. The last clause also applies to rates charged for water.

The charter provides that the grant of every franchise is subject to the right of the city, whether reserved or not, to prescribe and regulate the rates, fares, rentals or charges made for the service rendered under such franchise. Every ordinance granting a franchise shall provide that the city may take over the property at a fair valuation at the expiration of the franchise or at any time before as stated in the ordinance, but in no case is the value of the franchise to be taken into account in fixing such valuation. The city is given the power to examine all the books, vouchers and records of any pulbic service corporation.

As a further safeguard, there is reserved to the people the right to secure direct legislation by the initiative and referendum. A petition signed by 15 per cent of the entire vote at the last preceding general election makes it incumbent on the council either to pass without alteration the ordinance accompanying the petition within twenty days or call a special election for submitting it to a vote of the people. There is a provision which makes it comparatively easy to secure direct legislation, for a petition signed by 5 per cent is sufficient to secure the submission of a proposed ordinance at the next general municipal election. An ordinance proposed by petition must be published in the official newspaper or printed and sent to each voter at least three days prior to the election. Any ordinance proposed by petition, or adopted by a vote of the people, cannot be repealed or amended except by a vote of the people. No ordinance passed by the council can go into effect within thirty days, and if during this time, a petition signed by 10 per cent of the entire vote at the last preceding general municipal election, the ordinance shall be suspended, and it is made the duty of the council to reconsider it and if it be not entirely revealed, the ordinance

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must be submitted to a vote of the people either at the next municipal election or at a special election. The council is given the authority to submit of its own motion any ordinance for adoption or rejection by the electors. There is included a provision which is among the first, if not the first, providing for the contingency which would arise by the adoption of two or more conflicting measures. In the above case, the measure receiving the highest affirmative vote shall control.

HORACE E. FLACK

**Municipal Government. Commission System. Original Laws.** Minnesota and Wisconsin have followed the lead of Iowa, North and South Dakota, Kansas, and Mississippi and passed a general law providing for a commission system of government. The idea did not begin with these states, and neither does it always take the form of a general law. Sometimes, as in Texas, Massachusetts and California, cities adopt it under the privileges of a special charter.

The Minnesota and Wisconsin laws are different than any previously enacted but it is very questionable whether Minnesota's law—the better of the two—is a step in advance of laws already enacted and systems already in practical operation.

The Wisconsin law is lacking in certain important essentials and faulty in certain others equally as essential; the Minnesota law is a model or a failure depending largely upon whether or not the critic and judge is a believer in home rule for cities or a believer in centralization with state supervision, regulation and control. In Wisconsin the plan must be adopted by the city as a whole or rejected as a whole; in Minnesota part of the plan may be adopted and part rejected, depending upon the suggestions incorporated in the charter by the board of freeholders and the final decision of the people. In Minnesota each city may adopt a plan to suit itself. Mississippi is the only state that quite compares with Minnesota in this respect.

The Wisconsin law applies only to cities of the second, third and fourth classes—omitting Milwaukee, the only city of the first class in the state. The system is to be introduced when electors equal in number to 25 per cent of the votes cast for all candidates for mayor at the last city election petition for such a form of government and a majority of the electors voting cast their ballot in favor of the plan proposed. The question, however, is not to be submitted to a vote of the people oftener than once a year.

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All existing laws applicable and not inconsistent with the provisions of the new law are to apply and govern the reorganized city; all by-laws, ordinances and resolutions passed and in force are to remain in force until altered or repealed by the new council; the territorial limits of the city are to remain as before; all rights and property are to remain intact; and all rights and liabilities are to be unimpaired—in short the status quo is to be maintained until the city under its new form of government sees fit to change it; sees fit to repeal or amend its laws and ordinances and change or modify its rights and privileges.

In April following the adoption of the new form of government, a mayor and two councilmen are to be elected at large, the mayor to serve for six years and the councilmen for four, the first two councilmen to be elected for a long and a short term.

Candidates for mayor and councilmen must possess the qualifications of electors, local residence previous to election, however, is not demanded as a requirement; after election these officers must reside in the city electing them and in addition must devote their entire time to the duties of their offices.

The mayor and councilmen are elected after a filed statement of candidacy, a petition signed by twenty-five voters and a non-partisan primary election. As a result of the primary election, the two candidates for mayor, and after the first election, the two candidates for councilmen receiving the highest number of votes are to be deemed nominated to their respective offices. The names of these candidates and these alone are to appear on the official ballot at the next general election. There are to be no independent candidates.

A majority of the members of the council are to constitute a quorum. The mayor is to be president and have a vote but no veto power. This council is given power to create any general department of city affairs, such as public finance and accounts; public health, safety and sanitation; streets and public improvements; parks, recreation grounds and public property; public charities and corrections; and designate one of its members to take charge of such a department. The mayor and councilmen are the only officers elected, they in turn elect a city corporation council, comptroller, treasurer, superintendents of streets and such other officers and assistants as are necessary to the efficient administration of the affairs of the city and fix their term of service and salaries. The officers elected in this way may be removed by the council and removed apparently without a hearing or a statement of cause.

The salary of the mayor ranges from $5000 for cities of 40,000 and over,

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to $1000 for cities under 2500; and councilmen from $4500 to $700 for cities of the same classes. These salaries are much higher than under the Iowa law but when the question is considered, it must be remembered that in Wisconsin these officers are required to devote their entire time to the city while in Iowa only a fraction of their time. In Wisconsin no salary is to be increased except by a vote of the people at a general election—the law is silent as to reductions.

The city comptroller is required to prepare and present to the council a summary statement of the revenues and expenditures of the city for the preceding month, detailed as to appropriation and funds; together with a balance sheet statement of the current assets and liabilities of the city at the close of each month. These summaries are to be accompanied by such detailed schedules as the council may require and all schedules, acts, and proceedings are to be published each month in pamphlet form, given to all persons who apply and furnished to the newspapers of the city. At the end of each year the council must cause a full and complete examination to be made of all the books and accounts of the city, and cause it to be made by competent public accountants. These officials are required to report in full to the council and the council is to furnish this same information to the newspapers and interested parties.

The referendum is provided for in the following form, no ordinance passed by the council, except an ordinance for the immediate preservation of public peace, health or safety, is to go into effect within ten days from the time of its final passage, and if a petition is signed by the voters of the city equal in number to at least 20 per cent of the entire vote cast for all candidates for mayor at the last preceding general election, within those ten days, protesting against the passage of such an ordinance, the council must reconsider the measures and if they do not repeal it entirely, they must submit it to the voters for the city at a general or special election for their approval or rejection.

Franchises are to be granted and bonds issued as they are under the present law, that is after a referendum upon petition in the former case and a referendum vote without petition in the latter.

Any city adopting this system may again adopt the provisions of the general law, but not before the expiration of six years.

These, in short, are the main provisions of the law as it stands. It is faulty. There are omissions and defects, and judged in the light of previous legislation, mistakes. The referendum is provided for, it is true, but there is no initiative; the officers are elected for a long period and

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there is no recall. These omissions are not fatal but they are defects. Other defects in the law are that the councilmen are too few and are required to devote their entire time to the duties of their office. This in turn necessitates a larger salary. In either of the second and third class at least, it seems wiser to have more councilmen, make each one the head of an important department and let him devote but a part of his time to the duties of the office.

If this were done, better men could be obtained even at reduced salaries and the city would enjoy a better system of administration. Another objection that should be noted in passing is that any person may be a candidate at the primaries if he can obtain the signatures of twenty-five voters. It may be argued that anyone has the right to appeal to the people at the primaries, but the approval of twenty-five voters in a city of 40,000 hardly proves a man's claim to appear on the ballot.

In Minnesota the law is vastly different. The Minnesota law providing for a commission system of government for cities is based on the present statutory law relating to cities in general. The chief characteristic of the new law is the freedom enjoyed by the board of freeholders in the drafting of the city charter. The commission plan may be incorporated in its most progressive or its least progressive form, certain characteristic provisions may be adopted,—the small council elected at large, each member the head of a department and the other officers elected in turn by them—or the old form of city government may be adopted in the main, and only a few of the commission ideas incorporated. In the first instance this is all in the hands of the board of freeholders and in the final instance in the hands of the voters of the city.

The general law for the incorporation of cities gives the judges of the judicial district power to appoint a board of freeholders to frame a charter for the municipality and requires them to do so upon petition signed by at least 10 per cent of the voters as shown by the last city election. This board is as permanent as may be, vacancies being filled when they occur and new appointments being made at the expiration of a definite term. This board is given power to draft the city charter in every case and now the new law gives them the right to incorporate the commission form of government as a part of the proposed charter.

This board may provide that all elective city offices including the mayor and the members of the city council be elected at large or in some other way: they may state the manner in which any person desiring to become a candidate for any elective municipal office may become a can-

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didate for nomination at the primary election, may provide for the publication of statements and petitions of candidates, and may provide that there shall or shall not be a party designation or mark indicating the name of the party of the candidate. In addition the board of freeholders may also provide that the administrative powers, authority and duties be distributed among the departments, define the powers and duties of the mayor and each member of the council and provide that each member of the council perform such administrative duties as may be designated in the charter. The recall of elective municipal officers, the submission of ordinances to the council by petition, and the referendum vote upon petition may also be provided for in the charter. Under the statutory law as it stood previous to the passage of this act, amendments might be proposed to the city charter by the board of freeholders or upon petition of 5 per cent of the voters. The adoption of the new commission system of government may also be voted upon after the filing of a like petition.

There is much in the Minnesota law to commend it. Each city may have a charter to please its inhabitants; that charter may or may not provide for the initiative, the referendum, the recall and the non-partisan primary. The freeholders and the people of each city decide for themselves. Perhaps too much power is given to the board of freeholders. They draft the charter and include their own ideas. The power and influence of this board is not to be overlooked, and neither is the fact to be forgotten that the final decision rests with the people.

Again too much power may be left with the city. It seems wiser to give the city certain powers and privileges and let it exercise them if it wishes rather than to have it under a charter without such privileges. The Iowa plan comes nearer the ideal than Minnesota's and both are superior to the Wisconsin system.

AMENDMENTS. Iowa, South Dakota, and Kansas have each amended their laws relating to the government of cities by commission. Iowa has deemed the law good and permitted its extension to cities of 7000 and over if they desire it. South Dakota has merely corrected slight defects, and Kansas has made important amendments and additions covering the subjects of the initiative, the referendum, the recall and the granting of franchises.

The Iowa law as first enacted applied only to cities of 25,000 inhabitants and over. At the last session, provision was made for a similar form of government for cities of 7000 inhabitants and over. This was the only important amendment but it necessitated several changes in

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and additions to the law due mainly to the fact that cities of from 7000 to 25,000 inhabitants are to be governed by a mayor and two councilmen instead of a mayor and four councilmen as is the case in larger cities. Under the original law each member of the council, including the mayor, was in charge of an important department of city affairs. This still remains true for cities of 25,000 and over but for cities of from 7000 to 25,000 inhabitants, each councilman is to have charge of two departments. The salary clause was also amended but only to provide compensation for the officials of the smaller cities in proportion to the compensation enjoyed by officials of larger ones.

The law as originally passed contained the recall clause made operative by petition and election but no provision was made for the nomination of the candidates for the office. The new law states that so far as applicable, nominations are to be made without the intervention of a primary election. The new candidates must file a statement of candidacy, accompanied by a petition signed by at least 10 per cent of the entire vote cast for all candidates for mayor at the last preceding general municipal election.

The law was further amended and in addition to the powers already given to cities organized under the commission plan of government, there was added the power to levy special taxes for fire departments, special taxes for a road district fund and power to control their river fronts and meandering streams.

The South Dakota amendments are simply amendments inserted to correct errors and slight defects brought out by use or contemplated use. In brief it is a mere perfection in form without a change of idea or plan.

Kansas has continued to use the old form and still maintains the distinction between cities of the first and cities of the second class. The form of government for the two is somewhat different. Several important amendments and additions have been made to the law governing cities of the first class but these amendments are not original or new. They have been in use in Iowa. In short, it may be said that all the amendments with the exception of woman's suffrage and the clause relating to salaries of officials have been taken from the law of 1907.

Under the new law the voting rights of women have been extended and now they may vote for or against the adoption of this plan of government and at all elections held under this system. The cities have been reclassified according to population, the classification made more minute and the salaries of the mayor and councilmen changed to correspond.

An entirely new section taken from the Iowa law has been substituted

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in place of sec. 14 of ch. 114 of the law of 1907 providing for petitions and nominations. The new section is more complete giving the form of statement of candidacy, the form of petitions and the form of primary election ballots.

Three very important additions have been made. A civil service commission has been created and the initiative and the recall provided for. All are modeled very closely—in fact, taken almost verbatim—from the Iowa law of an earlier date.

Provision is made for the appointment, oath of office, and removal of the civil service commissioner, for the organization of the board, for the examination of candidates for appointive offices, for hearings, trial, and appeal on removal, and for the general rules and regulations governing the department.

The recall has also been instituted. When a petition demanding the election of a successor is signed by the required number of qualified voters and filed with the county clerk, it is then submitted to the commission and they must call a special election not less than thirty days nor more than forty days after that date. Any person sought to be removed may be a candidate to succeed himself and unless he makes a request in writing to the contrary, the clerk must place his name on the official ballot without nomination. The candidate receiving the highest number of votes is declared elected and assumes the duties of the office upon qualification.

The initiative provision is also included in the new law and now any proposed ordinance may be submitted to the commission by petition and when this is done, it must either be passed without alteration and without a delay of more than twenty days or else it must be submitted to a vote of the people at a special or general election. A majority vote is all that is required to make the ordinance valid and binding and any ordinance proposed by petition or adopted by a vote of the people cannot be repealed or amended except by a vote of the people.

The law as originally passed did not make any provision permitting a commission city to return to its original form of government if dissatisfied. The new amendment covers the defect and now any city which has operated for more than four years under the plan as set forth in this act may abandon such an organization and accept the provisions of the original law, or if previously organized under special charter, resume its special charter, but the change must be made upon petition and a majority vote at a special election.

The law applying to cities of the second class has also been greatly

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modified. The changes have been drawn from the Kansas law already applicable to cities of the first class and from the Iowa law of 1907. The old law relating to cities of the second class was brief, the new law longer and more complicated. It provides for the annual budget, the granting of franchises, the initiative, the referendum, and for the return to the old form of government after four years trial, by a petition and majority vote at a special election. No provision is made for the recall. Cities of the first class are to be permitted the use of the initiative and recall but no referendum and cities of the second class the initiative and referendum but no recall.

ROBERT ARGYLL CAMPBELL.

**Tax Legislation in Maine.** Maine tax legislation in 1909 takes special interest from the fact that the legislature considered the report of the special tax commission which for over a year had been thoroughly investigating the tax system of the state. Perhaps the most important result is the act increasing the powers of the state assessors. The legislature adopted almost unchanged the bill submitted by the commission, which was modeled on the Wisconsin, Minnesota, and Michigan acts. The state assessors, hitherto elected by the legislature, become appointive officers with increased salaries; and in addition to the somewhat clerical duties which they have had since their creation twenty years ago, they must now instruct and supervise local assessors, and investigate the concealment and undervaluation of taxable property, and they may order the reassessment of the entire property, or any class of property, in any town, compel the attendance of witnesses and examine books and papers.

The tax commission's recommendation respecting the state assessors was addressed at the inevitable evils of a direct state tax apportioned by valuations. Further to mitigate these evils, the commission urged an apportionment of the amount by land values instead of by general property values, each community to continue to levy its apportioned share upon the general property taxable within its borders. To abolish the direct tax, or to apportion the amount by local expenditures, would exempt from state taxation the forest lands in the unincorporated portion of the state, which form one-tenth the valuation of the state, and are subject only to a small county tax besides the direct state tax. The public sentiment in the state for an increase rather than a decrease of forest taxation was one of the chief causes for the creation of the special

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tax commission. Administrative if not constitutional difficulties barred the way to the classification of the timber lands for taxation at a special rate or by a special form of tax.

The commission's recommendation failed to meet with legislative approval, chiefly because of the hardship to rural towns. In order to increase the tax burden upon the wild lands under the existing system of apportionment, it was suggested in the legislature that the proceeds of the state indirect taxes should be paid over to the towns according to their valuations, for road and school purposes, and that the rate of state tax should be doubled to fill the resulting hiatus in state revenue. Another plan comprised a direct increase in state tax rate, the additional receipts to be turned over to municipalities for schools in proportion to scholars, for roads in proportion to mileage, or for both purposes in proportion to local valuations. By the legislation eventually passed, a state tax of 1½ mills on each dollar of valuation, is levied, additional to the direct tax of 3 mills, the proceeds to be paid to towns for school purposes, two-thirds by valuation and one-third by school population. A fire district has been created, comprising the wild lands, subject to a special levy of 1½ mills on each dollar of valuation. A total state tax of 6 mills upon forest lands is the result of this legislation, in addition to which they remain subject to county taxes and special road and bridge taxes.

Although the legislature refused assent to the recommendation of a majority of the tax commission for the substitution of an ad valorem system for the excise taxes upon gross receipts of public service companies, it adopted several changes to meet criticisms by the commission. The rate of the steam railroad tax is to increase one-fourth of 1 per cent for each $400 per mile of gross receipts above $1500 to a maximum of 5 per cent instead of increasing one-fourth of 1 per cent for each $500 to a maximum of 4½ per cent. The rate for exclusively freight roads is limited to a maximum of 3 per cent. The rate for electric roads is increased from three-twentieths of 1 per cent per $1000 of gross receipts per mile to one-fourth of 1 per cent per $1000 with a maximum of 4 per cent. The special tax for the support of the railroad commissioners is repealed. The rate upon Pullman cars is increased from 4½ to 5 per cent of gross receipts. The express company rate is increased from 2½ to 3 per cent. The local taxes on real estate are no longer to be deducted from the state tax to be paid by express, telephone and telegraph companies. Taxable gross receipts of telephone and telegraph companies now comprise receipts collected within the state instead of

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receipts from business done wholly within the state: a change of doubtful constitutionality, although the companies will not contest the matter.

The only change in the taxation of business corporations was a regulative rather than fiscal measure, offered by the tax commission, for an annual registration fee of $10 upon foreign corporations maintaining a place of business in the state.

A direct inheritance tax is added to the collateral tax which Maine first adopted in 1893. The legislature did not follow the elaborate Wisconsin classification of inheritors proposed by the tax commission, but adopted the following schedule:

Husband, wife, lineal ancestor, descendant, adopted child, its descendant, son's wife or widow, daughter's husband, 1 per cent if the individual inheritance is between $10,000 and $50,000; 1½ per cent if between $50,000 and $100,000; 2 per cent if over $100,000. Brother, sister, uncle, aunt, nephew, niece, cousin, 4 per cent if the individual inheritance is between $500 and $50,000; 4½ per cent if between $50,000 and $100,000; 5 per cent if over $100,000.

Other inheritors, except exempt institutions, 5 per cent, 6 per cent, or 7 per cent, according as the amounts are as just enumerated.

By a commendable reciprocal clause, property of non-residents located in Maine and of Maine residents located elsewhere is to be liable in Maine only for the excess of the Maine tax over the tax properly levied by another sovereignty. The legislature made new provisions for the collection of the tax, but failed to adopt the commission's careful definitions of taxable intangible interests and its clauses for the collection of the tax on transfers thereof.

The tax commission recommended the exemption of mortgage credits, of bonds and stocks of taxed corporations, and of Maine state, county and municipal bonds; advocated the taxation of bank stock at the location of the bank; and urged a mortgage recording tax. The only legislative action upon these suggestions was to exempt future issues of Maine state, county and municipal bonds.

A substantial part of the tax commission's suggestions failed of adoption. Some have already been mentioned; others were the following: a uniform poll tax; the standard of assessment "full market value;" a graduated automobile tax; separate valuation of land and buildings; state assessment of electric, gas and water companies located in more than one town; taxation of national bank savings deposits, of life insurance companies upon net reserve instead of premiums, and of vessels

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owned by railroad companies. On the whole, however, an important portion of the commission's recommendations were embodied in legislation.

CLEMENT F. ROBINSON.

**Tuberculin Test.** The common council of the city of Milwaukee passed an ordinance forbidding the sale of milk except from cows which had been submitted to the tuberculin test. This ordinance was to have gone into effect on March 30, 1909. The day before it was to have become effective an injunction was issued restraining the officials from enforcing it. The case was at once taken into court and in September a decision was rendered sustaining the ordinance. The report of the court commissioner gives the following conclusions arrived at in the case: 1. That bovine tuberculosis is transmissible to man. 2. That there is danger of human beings becoming infected from bovine bacilli in milk from tubercular cows. 3. That the tuberculin test, while not infallible, is a reliable, trustworthy, and useful diagnostic agent for determining the existence or non-existence of tuberculosis in cattle.

LORIAN P. JEFFERSON.

**Uniform Accounting.** The movement for efficient government through accurate and comparable accounts makes steady progress. Indiana enacted a state wide law at the last session[1] and the state board of accounts has formulated a part of the system to be installed January 1, 1910.

Washington also enacted the uniform accounting system in a law which is a faithful copy of the Ohio law. The bureau of inspection and supervision of public offices is established in the office of the auditor of state. The auditor is the chief of the bureau, as is the case in Ohio, and appoints not more than three deputies. The law applies to all state officers and state institutions and all other public offices. The system of accounts and reports is required to be uniform for every office and account of the same class. No essential differences are to be found in this respect from the Indiana law which was itself modeled on the Ohio law. Four states, Ohio, Indiana, Wyoming and Washington have now adopted a state wide system of uniform accounts. Many others have adopted the system for some offices and all are moving in this direction. A complete uniform system in coöperation with the federal authorities at Washington will do much to promote good government.

[1]See *Pol. Sci. Rev.*, May 1909, p. 205.

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# NEWS AND NOTES

## Personal and Bibliographical

J. W. GARNER

The Sixth Annual meeting of the American Political Science Association was held in New York City, December 27–31. The presidential address of Mr. A. Lawrence Lowell was entitled The Physiology of Politics, and is published in this issue of the Review. The various sessions were devoted to the discussion of the following subjects: Administrative Law, Ballot Reform, English Constitutional and Political Development with Special Reference to the Centenary of Gladstone, The Valuation of Public Service Corporations, The Relation of the State to Labor, and the Governments of the Far East. These discussions and the papers read, will be published in the sixth annual volume of *Proceedings* of the Association which should appear early in the spring of this year.

The secretary reported a gratifying increase in the membership of the association, the enrollment now exceeding eleven hundred. In order, however, that the Association may be enabled to increase its usefulness and the value of its publications it is necessary that its membership should continue to grow. It is therefore earnestly urged that present members of the Association send to the secretary (W.W. Willoughby, Johns Hopkins University, Baltimore, Md.) the names of persons who are likely to be interested in the work and publications of the Association.

The following were elected officers of the Association for the year 1910. President, Woodrow Wilson, President of Princeton University; First Vice-President, Edmund J. James, President of the University of Illinois; Second Vice-President, Prof. Albert Bushnell Hart, of Harvard University; Third Vice President, Hon. W. F. Willoughby, Washington, D. C.; Secretary and Treasurer, Prof. W. W. Willoughby, Johns Hopkins University. The following were elected members of the Executive Council to replace those whose terms of office expired: Professors F. J. Goodnow, J. H. Latané, J. A. Fairlie, C. E. Merriam, Theodore Woolsey.

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The place of meeting for the Seventh Annual Meeting of the Association to be held in December 1910 was not determined, the matter being left in the hands of the Executive Council. Prof. John A. Fairlie of the University of Illinois was appointed Chairman of the Committee on Program for the meeting, with power to select the other members of the committee.

Prof. G. W. Prothero, the well known English historian and former professor in the University of Edinburgh is to deliver a course of lectures at Harvard University this year on the Growth and Government of the British Empire. Professor Prothero is also to deliver a series of lectures at the Johns Hopkins University.

Among the distinguished scholars upon whom the degree of doctor of laws was conferred by Harvard University at the recent inauguration of President A. Lawrence Lowell were Prof. F. J. Goodnow of Columbia and Prof. Otto Gierke of the University of Berlin.

Mr. James Bryce's lectures on good citizenship have been published by Charles Scribners Sons under the title *Hindrances to Good Citizenship.* The author dwells upon the nature of civic responsibility and points out the reasons why the obligations of the citizen are evaded by the average individual.

A useful brochure on *Government Contracts before the Accounting Officers and in the United States Court of Claims,* by Charles F. Carusi, has recently appeared. It describes the requirements and procedure in relation to contracts with and claims against the United States, based on the statutes, on judicial decisions, and on administrative decisions of the attorney-general and the comptroller of the treasury. It is intended mainly for the use of those interested in such contracts and claims; and at the same time gives a brief survey of an important branch of administrative law in this country.

Edmond Kelly, a well known publicist and political writer, died in New York October 4 last in his fifty-eighth year. He was educated at Columbia College and the University of Cambridge but spent most of his active life in Paris where he won distinction at the bar. He lived in the United States, however, at different intervals and was instrumental in establishing the City Club in New York. He took great

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interest in various reform movements and during the last two or three years of his life devoted much of his time to advocating the establishment of labor colonies. He was probably best known to Americans by his book on *Government or Human Evolution*, in two volumes. He was also the author of *Evolution and Effort*, a criticism of the doctrine of *laissez faire*; and recently published a little book dealing with the tramp problem, which was reviewed in a recent number of this periodical.

Prof. A. V. Dicey, emeritus professor of English law at Oxford, was elected to a fellowship in All Souls College, November 1, under a clause in the college statutes which enables the wardens and fellows of the college from time to time to elect to a fellowship tenable for seven years, any person who has attained distinction in the service of the crown or in the profession of the law, literature, science or art. In this connection it may be mentioned that recently Professor Dicey wrote a letter to the London *Times* advocating the introduction of the referendum into English politics. "It possesses," he declared, "the immense recommendation of being at once conservative and democratic in the best and truest sense of the word."

Mr. Thomas Erskine Holland, Chichele professor of international law at Oxford, has recently published a little book entitled *War and Neutrality: Letters to the London Times* (1881–1909)." (Longmans, Green and Company.)

Dr. Paul Posener, a distinguished German scholar, is the editor of a new volume entitled *Handwörterbuch der gesamten Rechts-und Staatswissenschaften*, in two large volumes of more than 2400 pages (Erich Weber, Berlin, 1909). It contains, we are told, 40,000 titles and catch words and covers the whole field of jurisprudence and political science. Professor Posener has been assisted by a large body of distinguished collaborators, among whom may be mentioned Professors Arndt, Gareis, Laband and Meyer.

The Macmillan Company announces that a new edition of Bryce's *American Commonwealth* will appear in the spring, and that "the revision will be a complete one, for Mr. Bryce is determined to bring the book fully abreast of recent progress." *The American Commonwealth* has exerted such an influence in this country that the publication of a new edition is an event of great importance both to the public at large and to students of political science.

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Dr. John Thom Holdsworth, who for several years was professor of ecomomics and politics at Drexel Institute, Philadelphia, and instructor in the Wharton School, University of Pennsylvania, has been appointed professor of finance and economics at the University of Pittsburgh.

Mr. Russell M. Story of Harvard University is this year in charge of the work on government in Clark College, Worcester, Mass.

The Intercollegiate Civic League was organized in 1906 and is composed "of an association of undergraduate political clubs in thirty colleges and universities, with different constitutions, but all with a common purpose, that is, to interest their members and instruct them in some practical way in the political life of the day." This League held its annual convention at New York and Washington in April, 1909, and the proceedings of this meeting have been printed in pamphlet form (pp. 79). Addresses to the meeting were delivered by Dr. Frederick A. Cleveland, Hon. John C. Spooner, and others.

The *Report of the Chicago Harbor Commission* (Chicago 1909) is an interesting volume of nearly 400 pages dealing with the present conditions and future possibilities of the harbor facilities of Chicago. The volume contains the text of the Report of the Commission, a summary of its recommendations, two papers entitled "What the ports of Europe are Doing," and "Chicago's Commercial Opportunity," by Prof. J. Paul Goode; a paper entitled "Obstacles to Chicago's Water Shipping Development," by Geo. C. Sikes; one entitled "The Volume and Trend of Traffic to and from the Central West" by Geo. G. Tunnell, and some documentary material.

William W. Smithers, Esq., of the Philadelphia bar, the author of various legal works, in collaboration with George D. Thorn, clerk of the Pennsylvania state board of pardons, has recently published an elaborate study of the pardoning power in Pennsylvania, entitled *Executive Clemency in Pennsylvania* (International Publishing Company: Philadelphia, 1909).

A new and revised edition of Wilbur F. Crofts' *Internationalism* has appeared, (The International Reform Bureau, Washington, 1909, pp. 96). It contains a discussion, in successive chapters, of international coöperation through the conclusion of treaties, the purpose of which

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is to keep the peace and maintain the balance of power between states; international arbitration and the Hague court; international coöperation in matters of trade and commerce; international cooperation in the interest of the alleviation of suffering, as for example, through the agency of the Red Cross convention; international action against the traffic in alcohol and opium, against the "White Slave" traffic; against the spread of crime in various forms, etc.

Messrs. Houghton, Mifflin and Company announce the publication of a new edition of Taswell-Langmead's *English Constitutional History*; the price of the new edition will be $3.75 per copy instead of $6.00 as heretofore charged.

Silver, Burdett and Company have brought out a new edition (the fifth) of Wilson and Tucker's *International Law*. The new edition has been printed from entirely new plates owing to the extensive changes made in the revision. Among the current topics discussed in the new edition are the decisions and results of the two Hague conferences and last year's naval conference at London; the significance of the Pan-American conference; and the effects of recent wars, notably of the Russo-Japanese war, upon military agreements. Of special value is a new section on the influence of the United States on the development of international law. The appendix has been made more valuable, all obsolete material having been superseded by recent treaties and conventions, among which may be noted the Declaration of London of 1909, in full; the Geneva convention of 1906 for the amelioration of the condition of the wounded, and the text of the most important of the Hague conventions of 1907, such as those relating to the international prize court, and to the rights and duties of neutral powers in naval war.

The *Journal of Political Economy* has for some time published in its monthly issues a selected and classified bibliography of current writings on economics. The University of Chicago Press now announces that it will publish an annual cumulative list, containing not only the entries in the monthly lists, but also much new matter. The first annual cumulative list will be issued in March, 1910.

The American Association for Labor Legislation has published a *Review of Labor Legislation of 1909*, prepared by Irene Osgood (Madison, Wis., 1909, pp. 40). The purpose of the review is to furnish a brief

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index and digest of the labor legislation in the United States during the past year. The initial number is in the nature of an experiment but if it seems to meet a demand, a similar review will be published annually hereafter.

Joseph Wheless, of the St. Louis bar, has prepared and published in English a compendium of Mexican law, which, we are told, is officially authorized by the department of justice of Mexico (The F. H. Thomas Law Book Company: St. Louis, 1909). It is divided into thirty books of which one contains the full text of the constitution of 1857 with all the amendments translated into English and annotated; another contains the law governing the administrative system; other books contain the Civil Code, the Code of Commerce, the Code of Civil Procedure, the laws relating to railroads, insurance, copyrights, patents, coinage and currency, the judicial system, corporations, etc.

*Staats und Verwaltungsrecht des Koniggreichs Ungarn und seiner Nebenländer.* Von Professor Gejza von Ferdinandy, (Bibliothek des öffentlichen Rechts. Hannover: Max Jänecke, 1909, pp. xvi, 318). Until recently few books outside of those in Magyar were available for a study of Hungarian constitutional and administrative organization, but during the past several years books upon Hungarian affairs have appeared in great number in the German, French, and English languages. Many of these recent works have related to ephemeral political questions, and Professor Ferdinandy's treatise is almost the only one available to western students upon the technical features of constitutional and administrative organization in Hungary. Within the limits of a small volume the subject is necessarily treated briefly, but the work is well done, and will be of great value to students who wish to become familiar with the Hungarian governmental organization.

One of the most important of recent books on Hungary is *La Question Sociale et le Socialisme en Hongrie* by Gabriel Louis Jaray (Paris: Felix Alcan, 1909, pp. 423). M. Jaray knows Hungary intimately and has been a frequent contributor to French journals upon subjects relating to that country. The author discusses fully the social and industrial situation of the Hungarian proletariat, and presents a thorough analysis of the social democratic movement. Of particular interest to students of political science is his discussion of the struggle for universal suffrage. Although avowedly a study of social conditions, M. Jaray's work can-

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not be neglected by one who would wish to understand the present political situation in Hungary.

*Hungary of To-Day*, by members of the Hungarian government, etc., edited by Percy Alden (London, Nash, pp. 415), is an interesting collection of articles dealing with different phases of Hungarian political life. The most interesting article is that by Count Albert Apponyi on the Hungarian constitution, which covers more than a hundred pages. Other articles of particular interest to students of political affairs are those on law and justice, taxation reform, industrial labor legislation, the state and agriculture, public education, the state child, and the political position of Croatia. In all of these articles the legal aspect predominates, and one may read the book as a whole without appreciating the fact that there are important social and racial questions pressing for solution in Hungary. The book is valuable as giving a statement of the constitutional organization, and of the legislation in a number of important fields, but presents only one side of the picture. In order to get another view of the situation reference may be had to Seton-Watson's *Racial Problems in Hungary* (London, Constable, 1908), and to M. Jaray's work to which reference is made above.

*L'Immigration aux Etats-Unis et les lois federales* (Paris, Larose et Tenin, 1908, pp. 216), by Charles Salvy, is a doctoral dissertation in which the author discusses in a popular manner the immigration and naturalization laws of the United States. Some attention is devoted to the methods of enforcing the laws, and there is a rather full discussion of Chinese and Japanese exclusion.

A bulletin on *Industrial Accidents and Workingmen's Compensation* has recently been issued by the Minnesota Bureau of Labor, Industries and Commerce (pp. 58). Great interest has been shown in this subject during the past few years. Much of the material and information upon the subject may be found in Reuben McKitrick's *Accident Insurance for Workingmen* (Wisconsin Comparative Legislation Bulletin, July, 1909, pp. 70). An excellent discussion of the legal principles of employers' liability is found in an article by Prof. Floyd R. Mechen in the *Illinois Law Review* for November, 1909.

Dr. William I. Hull has published in the Swarthmore College *Bulletin* (vol. vii, no. 1), under the title of The New Peace Movement, a series

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of addresses delivered by him during 1908 and 1909 (Swarthmore, Pa., 1909, pp. 76). The addresses deal in a popular manner with topics connected with the movements toward disarmament and international arbitration.

The government printing office has recently published *A Report on National Vitality, its Waste and Conservation* (Washington, 1909, pp. ix, 138), prepared by Prof. Irving Fisher for the National Conservation Commission. This report discusses in an interesting manner questions relating to the preservation of health and life.

The Kingdom of Wurttemberg adopted in 1906 a system of proportional representation, which seats in the Landtag are distributed among the several political parties or groups in proportion (roughly) to the number of votes cast by each party or group. This system of proportional representation, the first to be employed in Germany, was tested in elections of December, 1906 and January, 1907. Dr. Jean Fontaine in a monograph on *La Représentation proportionnelle en Wurtemberg*, (Paris, Larose et Tenin, 1909, pp. 219), analyzes the law and discusses its operation in the elections of 1906 and 1907. In his opinion the law has operated very satisfactorily.

*La Condition politique de la Coatie-Slavonie dans la monarchie Austro-Hongroise*, by G. de Montbel (Toulouse, Lagarde et Sebille, 1909, pp. 314), presents a history of the Croatian situation, and a discussion of the present relations of Croatia with Hungary and with the Austro-Hungarian monarchy. Of particular interest are Dr. Montbel's discussions of recent difficulties between Croatia and Hungary, of the Pan-Servian agitation, and of the annexation of Bosnia and Herzegovina by Austria-Hungary.

*Le parlement Russe, Son organization-ses rapports avec l'Empereur* (Paris, Arthur Rousseau, 1909, pp. 218), is a doctoral dissertation submitted at the University of Paris by Pierre Chasles. Dr. Chasles' work is based upon a study of Russian sources and upon some observation of the working of parliamentary institutions in Russia; he discusses fully the constitutional movement, and outlines the composition, organization and powers of the duma and of the council of the empire. Dr. Chasles concludes that parliamentary institutions are now well-established in Russia, and that the duma, although now a "parliament in tutelage," will exercise an increasing influence in Russian affairs.

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*A Historical Study of Legislation Regarding Public Health in the States of New York and Massachusetts* is the title of a very creditable doctor's thesis, by Miss Susan Wade Peabody, prepared under the direction of Prof. Ernst Freund of the University of Chicago, and published as a supplement to the *Journal of Infectious Diseases* (Chicago, 1909, pp. 158). The study is divided for the purpose of treatment into two parts: one dealing mainly with the cause of legislative action and the other with the administration of the laws relating to public health, with particular reference to the agencies and means of enforcement. In an appendix of twenty-two pages the author gives a summary of legislation enacted by the states of Pennsylvania and South Carolina and by the federal government. Other appendices contain a table of cases, a bibliography of the literature, and a list of epidemics with the resulting legislation which followed each outbreak.

P. S. King & Son have published a new and timely work by J. A. Hobson, entitled *The Crisis of Liberalism: New Issues of Democracy* (London, 1909, pp. 280). It is divided into three parts: one dealing with democracy and the referendum; another with liberalism and socialism; and the third with "applied democracy" including a discussion of such subjects as poverty, its causes and cures, charity organization, millionaire endowments, the morality of nations, etc. Mr. Hobson dwells upon the constitutional issues raised by the action of the house of Lords in rejecting the budget, and advocates a reform bill substituting for the veto of the second chamber a popular referendum.

A new edition (the third), of Lewis on *Eminent Domain* (Callaghan and Company, Chicago, 1909), has recently been published. The new edition embraces the decisions of the last ten years which bear upon the subject of expropriation, and deals with a number of new topics, such as interurban railroads, the transportation of freight upon street railroads, the vacation and closing of streets and highways; distribution of electricity, regulations and restrictions upon the use of property, etc.

An important and successful experiment with proportional representation was recently made in the municipal elections of Johannesburg and Pretoria, in pursuance of an act of parliament applying especially to those cities. It will be remembered that the draft constitution for the South African Union contained a proportional representation provision which, however, was finally eliminated. The particular form introduced in Johannesburg and Pretoria, was the single transferable vote and it is

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reported to have given great satisfaction. In the former city, ten councillors were elected, of whom six were returned by commercial and representative associations, two by the labor party and two by independents.

The municipal elections throughout England were held on the first of November. Outside of London the returns indicate very little change of sentiment in the issues of British municipal politics, the gains on one side being about evenly balanced by the losses on the other. If the results have any significance it is that the progress of municipal socialism has received a check. In London, where the members of the borough councils retire triennially, 1362 seats were filled for which places there were about 3000 candidates, of whom sixty were women.

In the metropolis, the "municipal reformers," the party opposed to an increase of municipal expenditures which swept London three years ago, held their own, and in addition won several notable triumphs, especially in Battersea, John Burn's constituency, where they routed the socialists and progressives and captured all of the twenty-seven seats. The following comparative table for 1906 and 1909, shows the number of seats held by the several parties in London:

| | 1906 | 1909 |
|---|---|---|
| Municipal reformers | 959 | 977 |
| Progressives | 272 | 251 |
| Labor and Socialists | 34 | 41 |
| Independent | 97 | 93 |

Five of the sixty female candidates were successful. Very little interest in the elections was manifested, scarcely more than 50 per cent of the electors going to the polls.

Two important royal commissions have recently been appointed in England. One of them, under the chairmanship of Lord Gorell, is to inquire into the present state of the law of divorce and its administration; the other, presided over by Lord James Hereford, is to consider and report what, if any, steps should be taken to facilitate the selection of more suitable justices of the peace. In this connection it may be noted that volume vi of the report of the royal commission on canals and waterways has been issued. It contains reports on the waterways of France, Belgium, Germany and Holland. It may also be remarked here that the third and last installment of the final report of the poor law commission has appeared. It deals with the administration of the poor

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law in Scotland and like the previous ones on England and Ireland, contains a majority and a minority report. The minority report is signed by four out of the eighteen members, among the former being Mrs. Sidney Webb. The minority report is criticized by the London *Times* as a "Fabian manifesto masquerading as an official document." It proposes that the Scottish poor law be abolished and that the administration of relief for different classes be distributed among various existing or new authorities. Lord George Hamilton, chairman of the commission, answers the "Manifesto" of the minority in an attached memorandum.

An important conference on criminal law and criminology was held at Madison, Wisconsin, November 26 and 27. This conference was in a sense, the first fruits of the national conference on criminal law and criminalogy held at Chicago last June, and it is expected that other states will follow the example of Wisconsin during the present year. The Wisconsin conference was called to consider some of the questions connected with the increasing delays and miscarriages of justice in judicial procedure, to inquire into the reasons for the widespread lack of confidence in the present methods of administering punitive justice, and to discuss what improvements, if any, may be made in the existing system. About one hundred and twenty delegates, mostly lawyers, judges, heads of penal institutions, alienists, sociologists and university professors of law attended the sessions of the conference. The preliminary work of the conference was distributed among eight committees, to each of which was assigned one of the following topics: The Jury; Trial Procedure; Trial of the Issue of Mental Responsibility; Appeals and Reversals; Judicial Organization; Juvenile Offenders; Probation, Including Parole, Pardon and indeterminate Sentences; and the Causes and Prevention of Crime. A permanent organization was effected and several committees were appointed to investigate certain questions and publish their findings. A second conference will be held next fall at which the reports of these committees will be considered, and definite recommendations will be agreed upon for presentation to the legislature. The declared ambition of the conference is "to make Wisconsin within five years, a model state with respect to the administration of criminal justice."

During the last two weeks in September, two congresses on international maritime law were held at Brussels and Bremen. The congress

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at Brussels was convened by the Belgian government and was attended by delegates representing the various maritime powers. The congress at Bremen was called by the International Maritime Committee and was attended by delegates nominated by the various maritime law associations of Europe. Among the questions considered by the Brussels congress were those relating to collisions, assistance to distressed vessels, and privileges and liabilities of ship owners. The majority of the delegates signified their acceptance of the new rules formulated. The congress at Bremen considered the subjects of salvage, the limitation of shipowners' liabilities, and maritime liens and mortgages. The Brussels congress will re-assemble in April after the various governments concerned shall have taken action on the preliminary agreements. The United States government was represented at the latter congress by Edwin W. Smith, of Pittsburg, United States Circuit Judge Walter C. Noyes of Connecticut, Ex-Governor A. J. Montague of Virginia and Charles C. Burlingham of New York.

An international congress of administrative sciences is to be held at Brussels in July next in connection with the Universal International Exhibition. The deliberations of the congress will be conducted in four sections, dealing with the following topics: Communal Administration, Intermediate Organization between the State and the Local Authorities, Organization of Central Authorities, and Administrative Literature. Anyone may participate in the deliberations of the congress upon payment of a subscription fee of 25 francs, in return for which he will receive a copy of the published proceedings. The delegates appointed by the Secretary of State to represent the government of the United States at the congress are Prof. F. J. Goodnow, of Columbia University, Prof. John A. Fairlie, of the University of Illinois and Dr. Henry D. Geddings of the public health and marine hospital service. Applications for membership and requests for information may be addressed to M. De Vuysh, Avenue des Germains 22, Brussels.

The Nobel peace prize for the year 1909 has been divided between Baron d'Estournelles de Constant of France and August Beernaert of Belgium. Baron de Constant for some years has been one of the leaders of the Interparliamentary Union and has served as its president. At the present time he is widely known as one of the most active and powerful advocates of international arbitration and has done much to promote the peace movement of the world. M. Beernaert though less widely known,

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is recognized in Europe as an able and persistent friend of the peace movement. At the present time he is the premier of Belgium, and he presided over the International Maritime Congress held at Brussels last September.

The previous recipients of the Nobel peace prize were Henri Dunant of Switzerland, and Frederic Passy of France, 1901; Elie Ducommun of Switzerland, 1902; Albert Gobat of Switzerland, and William R. Cremer of England, 1903; The Institute of International Law, 1904; Bertha von Suttner of Austria, 1905; Theodore Roosevelt of the United States, 1906; Ernesto T. Moneta of Italy, 1907; and K. F. Anderson of Sweden and M. F. Baier of Denmark, 1908. The prize for 1910 will be awarded December 10, next, and all proposals must be laid before the committee one before the first of February of the same year.

Any one of the following persons is held to be duly qualified: (*a*) Members and late members of the Nobel committee of the Norwegian parliament, as well as the advisers appointed at the Norwegian Nobel Institute; (*b*) members of parliament and members of government of the different states, as well as members of the Interparliamentary Union; (*c*) members of the international arbitration court at the Hague; (*d*) members of the commission of the permanent international peace bureau; (*e*) members and associates of the Institute of International Law; (*f*) university professors of political science and law, of history and of philosophy; and (*g*) persons who have received the Nobel peace prize.

For particulars, qualified persons are requested to apply to the office of the Nobel committee of the Norwegian parliament, Drammensvei 19, Kristiania.

In the September, 1909, number of the *Revisto Universitaria*, a journal published by the University of San Marcos at Lima, Peru, Prof. Juan Bautista de Lavalle had an interesting article on the program of the fourth Pan-American conference, which is to be held at Buenos Ayres in 1910. This article has also been separately issued in pamphlet form, (Lima, Sammarti, pp. 34).

It is always interesting to see ourselves as others see us, and particularly so when we appear well to others. Twelve months of living intimately with the Americans give weight to the criticisms, favorable and otherwise of Mr. Alexander Francis in his book *Americans, an Impression* (Appleton and Company, New York, 1909, pp. 258). He has evidently made a discriminating study of his subject and certainly his

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observations are keen and just and furnish food for thought. He thinks that the problem of immigration is a more serious one than Americans realize; but confesses that the force and effect of American life and institutions upon the immigrants is one of the most extraordinary phenomena of history. He devotes several chapters to our educational system, finding many weak points, such as "electives," co-education, the great preponderance of women teachers, the lack of religious teaching, etc. But he also finds much to praise and says that the American universities have elements of strength that the English lack.

Among the chapters of special interest to readers of the REVIEW are: the National Temper, America and England, Social Settlements, Social Discontent, Socialism, Socialism and Democracy, and Social Progress. His discussions are unprejudiced and will be found interesting and instructive.

Mr. George A. Rankin has written a vigorous and interesting work entitled *An American Transportation System*, published in Putnam's Questions of the Day Series. The author discusses the defects of present transportation conditions and the legislative attempts to improve them, and proposes a radical remedy. In forceful language, he points out that our own railroads are lacking in safety and adequacy of facilities, wasteful in their operations, dishonest in their financial methods and a corrupting influence in American life. He criticises existing legislation in regard to safety and facilities as entirely insufficient, the attempt to regulate rates as lacking in a definite policy; and shows the inefficiency of competition in transportation and the difficulty of public control under the existing duality of government authority. His proposed remedy is a constitutional amendment organizing the holders of the bonds, stock, and other securities of railroads and other transportation lines into one transportation corporation, on a valuation of existing securities made under the supervision of the supreme court. This corporation is to operate the whole transporation system subject to control by a special court, in regard to safety, facilities, rates and the issue of stock for additional lines and equipment,—rates to be based on the principle of equal charges for equal distances (but recognizing lower rates per mile for longer than for shorter hauls), and such as to yield 5 per cent on the capital stock. His account of past and present conditions is strongly presented, but at the same time recognizes what the railroads have accomplished. His remedy is a comprehensive one, involving more radical changes in our governmental system than the author seems to

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realize; and it will not meet with ready acceptance. But the book is well worth reading and should emphasize the profound importance of the transportation problem.

The meeting of the fourth Pan-American conference is to be held in Buenos Ayres in August next and a tentative program has been prepared as published by a committee of the governing board of the Bureau of American Republics at Washington. Reports are to be presented from each delegation concerning the action of their respective governments upon the resolutions and conventions of the preceding conference; from various committees appointed at the Rio Janeiro conference; from the director of the International Bureau of American Republics; from the international commission of jurists appointed to consider the project for a code of public and private international law, and a report on the progress of the Pan-American railway. Among the proposed topics for consideration and discussion are: Postal Rates and a Parcels Post; Uniformity in Census and Commercial Statistics; Uniformity of Customs Regulations; the Establishment of More Rapid Steamship Communication between the American Republics; Uniformity of Food and Sanitary Regulations; Sanitary Police and Quarantine; the Establishment of a more Uniform Monetary Standard; the Possibilities of International Coöperation for the Conservation of Natural Resources; Closer Coöperation between the Pan-American Scientific Congress and the Pan-American Conference; Patents, Trades-marks and Copyrights; Foreign Immigration; Practice of the Learned Professions; Naturalization; Neutrality in Cases of Civil War; Uniformity of Regulations for Protection against Anarchists; and Future Conferences. Secretary Knox has asked for the immediate appropriation of $75,000 to meet the expenses of the American delegates who are to be appointed at an early date.

The government of the Argentine Republic has already selected its delegation and has set a very high standard by choosing some of the most distinguished publicists of the country. Among them we note the names of Dr. Antonio Bermejo, chief justice of the federal supreme court; Dr. E. L. Bedau, professor of international law in the National University; Dr. Louis M. Drago, an eminent jurist, well known as the author of the "Drago doctrine," a member of the Hague peace conference and at present one of the arbitrators of the North Atlantic fisheries dispute; Dr. E. S. Zeballos, former Argentine minister of foreign affairs and a writer on international law; Dr. Saenz-Peña, a delegate to the first conference held in Washington in 1889, and the leading candidate for president of

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the Argentine Republic; Dr. Rodrigues-Larretta, a distinguished orator, a former minister of foreign affairs and a member of the Hague permanent court of arbitration; and Dr. Montes de Oca, an eminent jurist and at present professor of constitutional law in the National University.

Butterworth and Company of London have just issued a four-volume work on *The Legislation of the Empire*, being a survey of legislative enactments of the British dominions from 1898 to 1907, edited under the direction of the Society of Comparative Legislation, by C. E. A. Bedwell. The English Society of Comparative Legislation has, since 1896, published annually in its journal a review of the legislation enacted within the British Empire. In the four volumes just issued these annual reviews have been consolidated and compiled, so as to present a complete ten-years' survey of all legislation enacted by the British colonies. The volumes should be of great value to all students of comparative legislation.

*Two Decades of Comparative Legislation* by Dr. Robert H. Whitten, Librarian of the New York Public Service Commission, First District, is the title of a reprint from the *Law Library Journal* of October, 1909. Dr. Whitten dwells upon the value of scientific information as the basis of legislation, but points out that knowledge concerning the laws enacted by other states is not always good. We need, he asserts, to distinguish carefully between the blind imitation of the laws of other states, and comparative legislation, which involves the careful study not only of many laws upon the same subject but of the actual working of those laws and of the results of their operation. The laws of other states should be imitated only after careful investigation of their practical workings. Mr. Whitten suggests that in addition to a legislative reference bureau and a bill drafting agency, there ought to be in every state a bureau of statistics with skilled accountants and statisticians to collect the facts essential to intelligent legislation. He points out the practical value to the legislator to be derived from the study of the legislation and institutions of the leading European countries, though as yet there is so great a dearth of library facilities in America for the study of foreign legislation that the investigator is beset by great difficulties.

*Die Staatsverfassungen des Erdballs* (Charlottenburg, Fichtner, pp. 1435) is a collection of constitutions edited by Prof. Paul Posener. It is planned to issue annual supplements to this collection containing

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new constitutions and constitutional amendments. Constitutions of which the original texts are in English, French, German, or Spanish, are printed in these languages respectively; but in other cases translations are made into German, except for Sweden where the text is printed in Swedish. The collection contains the constitutions of all independent countries, and, in addition, the constitutions of all of the German states, and of the self-governing British colonies. For the United States, the federal constitution is given, together with statements, mostly incorrect, regarding the constitutions in force in the several states. In some cases the texts are preceded by brief historical introductions. There is no subject index, but simply an alphabetical list of countries with an indication of pages at which may be found the several constitutions.

*The Commonweal, a Study of the Federal System of Political Economy*, by Alfred P. Hillier (Longmans, Green and Company, 1909, pp. 162), is the title of a little book by an English writer who undertakes to defend the policy of a protective tariff for England. He asserts that the policy of *laissez faire* or free trade "carried out in the midst of a protectionist world has really produced a more unnatural and unsymmetrical state of things in England than any scientific tariff has produced anywhere else." The policy of protection in the United States, he declares, "would appear to be absolutely vindicated beyond any shadow of a doubt—vindicated by a century of the most remarkable and enormous material and economic development that the world ever saw." It is inconceivable, he adds, that any student of American prosperity "whose vision is not obscured by the mists of bygone doctrinaire hypotheses can for one moment hold with Lord Avebury that 'if they had adopted a different course they would have made much more progress.'" And all civilized nations except Great Britain, he concludes, are now convinced of this fact.

*American Foreign Policy*, by a Diplomatist (Houghton, Mifflin: Boston, 1909, pp.194) is a little book of essays, eight in number, by a practical diplomat of wide experience and evident keenness of insight. The purpose of these studies, he tells us, is to draw attention to the duty of diplomacy to further our foreign policy in different regions of the world, and to the conditions of national security upon which must rest its assertion. Our foreign policy until now, he maintains, has been one of misunderstandings; we are just now beginning to understand that our economic resources are limited; that we shall soon be within sight of

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the end of the country's possibility for internal development; that the necessity for providing foreign markets for our surplus products is increasing and that we are at last beginning to realize the importance of a powerful navy to protect our foreign commerce and to insure us against war. We have still to learn that an efficient diplomacy is a necessary adjunct to the navy in the extension of our commerce abroad and in the preservation of peace at home. Hitherto our diplomacy has been overweighted with traditions that have outlived their usefulness and we are now waking up to the importance of a vigorous foreign policy, and of what we may rightfully demand of diplomacy as an instrument of progress. In a chapter on "Relations with Europe" he reviews historically our relations with the principal European powers and advocates a closer intimacy with Great Britain, even to the extent of a treaty of alliance. In an essay on the "Monroe Doctrine" he asserts that we have failed to make use of important opportunities to secure a recognition from European powers of the justice of the American position in regard to the Latin-American Republics. Our influence with the latter states could be increased, he thinks, by raising the rank of our diplomatic representatives to a grade higher than that of their colleagues and by encouraging the South American States to send to us representatives of higher rank. In an essay on the diplomatic service, he dwells upon the need of closer coöperation between that service and the other branches of the government and with the army and the navy. There ought to be a "congressional secretary" to explain details to the foreign relations committees and answer questions; also a press bureau in the state department to serve as the recognized channel of communication between the government and the public in all matters of foreign policy.

*Les Commissions Internationales d'Enquête,* par Albert Beaucourt (Arras, 1909, pp. 271). Dr. Beaucourt begins his study with a discussion of the precise nature of commissions of inquiry, distinguishing them from the "mixed commissions" which had frequently been established before the Hague conference of 1899. A detailed study follows of the projects proposed and the plan finally adopted for the institution of the commission by the Hague conference of 1899. The successful accomplishment of the purpose of the commission is next illustrated by an examination of the procedure followed and the results obtained by the commission of Paris, which was established in conformity with the declaration of St. Petersburg, November, 1904, to provide for an inquiry into the facts of the Dogger Bank incident. A final chapter exhibits the modifications

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of the commission of inquiry, chiefly in point of procedure, adopted by the second Hague conference. On the whole, the monograph is an interesting summary of the development of the commission, but it contains little matter not already accessible to the student.

*La Guerre Russo-Japonaise et la Neutralitê.* Par Louis Bon. (Montpellier, L'Abeille, 1909, pp. 256.) The principles of the inviolability of neutral territory and of the rights and duties of neutrals underwent so severe a strain during the Russo-Japanese war that there still remains room for further discussion than the subject has yet received. Dr. Bon's monograph treats first of the actual hostilities committed in Chinese and Korean territory, and then of the use of that territory as a base of hostile operations on the part of both of the belligerents. The subjects of enlistment, of equipment of ships in neutral territory, and of the furnishing of war material by the neutral to the belligerents, are next examined. The section dealing with the principles governing asylum constitute the most careful part of the work, especially the discussion of the English position as shown in the Declaration of Malta forbidding the use of English ports for coaling purposes by the Russian fleet en route to the scene of the war. In contrast the French position which allowed the Baltic fleet to coal, by means of intermediary colliers, at French colonial ports, is criticised as an act of hostile character.

Professor Oppenheim has published a small volume entitled *International Incidents* (Cambridge: University Press, 1909, pp. xii, 129), containing a collection of incidents suitable for discussion in classes in international law. In the main these incidents are veritable ones of recent occurrence, but some few of them have been invented for the purpose. The selection of material has been excellent and the volume cannot but be of stimulating value both to the teacher and to the students of international law and diplomacy, especially where the conversational method of instruction is followed. Dr. Oppenheim is thus to be thanked for making available to others the material he has collected with such discriminating care for use in his own classes.

*Equal Suffrage*, by Helen L. Sumner, Ph. D. (Harpers, New York, 1909, pp. xxxvi, 282), is an impartial and very creditable study of the workings of woman suffrage in Colorado during the first twelve years of its existence, 1893–1906. There is no argument and no attempt to make out a case for the equal suffragist. The investigation was made for the Col-

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legiate Equal Suffrage League of New York and the results cover two years of actual observation and study of the subject in nine counties of the state including the city of Denver. Miss Sumner has pointed out the evil of woman's suffrage as well as the good, with singular impartiality, though her conclusions are, on the whole in favor of equal suffrage. She finds, for example, that the prostitute class in the larger cities have voted almost solidly though under pressure from the police rather from any desire of their own. She thinks there has been a substantial gain in sentiment among the men of Colorado in favor of woman's suffrage; that a large majority of the women of the state believe their enfranchisement has been beneficial; that it has resulted in a larger independence of voting, as was recently shown in the reëlection of Judge Lindsey in Denver; that saloonkeepers and men of notoriously immoral lives are rarely if ever nominated to office, because the women cannot be driven by party loyalty to vote for them; that there is no evidence that equal suffrage has tended to introduce discord in the home or has led to neglect by the women of their domestic duties; that it has secured a larger representation of women on the boards of control of the state institutions, the number being 21 in 1907; that it has secured the enactment of much wise social legislation and has been the means of increasing the intelligence and public spirit of the female population. About one person in four who attends caucuses in Colorado is a woman; women are frequently elected as delegates to county and state conventions; there have been several women members of each legislature, with one or two exceptions, since the equal suffrage law went into effect; forty-seven out of fifty-nine counties have had females superintendents of education; the office of state superintendent of education since 1894 has been held by women and they have made better records than the men who formerly held the office.

Maurice Hauriou, professor of administrative law in the University of Toulouse, who is well known for his *Précis de Droit Administratif* which reached its seventeenth edition in 1907, has recently published a new work entitled *Principes de Droit Public* to meet the need of students, *en license* who are now required to pass an examination in public law.

M. Ernest Lemonon has supplemented his excellent work on the Second Hague Conference by a new book, entitled *La Conférence Navale de Londres* (Pichon et Durand-Auzias, Paris, 1909, pp. 115). The present work deals mainly with the subjects of blockade, contraband,

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hostile assistance, destruction of neutral prizes, transfer of ships, convoy and visits of search.

*L'Organisation Judiciaire aux Etats-Unis* is the title of a study and criticism of the organization and function of the American judiciary, by A. Nerincx, a well know jurist and Professor in the University of Louvain (Paris: Giard et Brière, 1909, pp. xi-427). The study was crowned by the Institute of France and the author was the recipient of a prize offered by the Institute. The article on the law schools and bar of the United States published in a recent number of the *Revue de Droit Public et de la Science Politique*, and to which reference was made in a previous number of this REVIEW, appears as a chapter in the present work.

Felix Alcan of Paris is the publisher of an important work, entitled *L'Europe et la Politique Britannique* (1882–1909) by Ernest Lémonon, whose book on the Second Hague Conference was reviewed in a recent number of this periodical. A review of this work will appear in the next issue of the REVIEW.

## CURRENT MUNICIPAL AFFAIRS

WILLIAM BENNETT MUNRO

The joint annual meeting of the National Municipal League and the American Civic Association was held at Cincinnati during the third week of November last. The meetings were well attended and proved in every way successful.

At the meetings of the National Municipal League the presidential address, delivered by Hon. Charles J. Bonaparte of Baltimore, Md., was entitled The Initiative in the Choice of Elective Municipal Officers, and dealt with the methods of nominating candidates at city elections. Mr. Bonaparte advocated the selection of candidates at party primaries but urged that, both at the primaries and at the subsequent election, every facility should be given to independent candidates. An interesting paper presented by Mr. Robert Treat Paine, Jr., of Boston dealt with recent improvements in election machinery, particularly with the laws which in four states have permitted or required the taking of party designations off the municipal ballot. In addition to these four states there are cities

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in ten other states which have secured charters containing provision for the elimination of party designations and there are at least as many more in which the proposal is now under consideration.

The much-mooted question as to the amount of interest which voters manifest in referenda was discussed in a paper read by Mr. E. M. Hartwell, city statistician of Boston. Comparisons were given showing the percentage of the total vote cast for or against questions of policy stated on the ballot with those cast for or against candidates. Mr. Hartwell's conclusion was that, taking municipal referenda as a whole, they have proved a satisfactory method of uncovering public sentiment and that they have developed interest and intelligence on the part of great masses of voters. An interesting illustration of this was given at the November elections in Boston when 70 per cent of the total registered vote was cast for one or other of the candidates for governor and 69 per cent of the total cast for one or other of the two charter plans.

A profitable session was devoted to franchise questions with papers by Dr. M. R. Maltbie of the New York Public Service Commission, Mr. Hoyt King of Chicago, and Mr. W. S. Hayden of Cleveland. Prof. Robert C. Brooks of the University of Cincinnati discussed the regulation of campaign contributions, while the problems of police administration were considered in papers read by Prof. A. R. Hatton of Western Reserve University and by Mr. Arthur H. Woods, formerly assistant police commissioner of New York. Mr. Woods sounded a timely warning against the policy of trusting to any system of competitive written examination as a means of securing police efficiency and urged that larger discretion in the matter of police appointments and promotions be given to heads of police departments. Various other papers dealt with charter revision, school administration, city planning, and building codes. Hon. Clinton Rogers Woodruff, secretary of the league gave his annual comprehensive review of municipal progress during the year and various reports were presented. One of the most interesting among these latter was the report of the committee on instruction in municipal government in elementary and high schools, which was read by Mr. James J. Shepard of the New York High School of Commerce.

The American Civic Association gave its chief attention to the subject of conservation with addresses on this topic by ex-President Eliot of Harvard University and Hon. James R. Garfield, former secretary of the

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interior. Other sessions dealt with the smoke nuisance, the billboard evil, the protection of immigrants in large cities and various other topics of interest.

The two organizations elected officers as follows: National Municipal League, Hon. Charles J. Bonaparte, president; Mr. George Burnham Jr., of Philadelphia, treasurer; Hon. Clinton Rogers Woodruff of Philadelphia, secretary. American Civic Association, Mr. J. Horace McFarland of Harrisburg, Pa., president, Mr. W. B. Howland of New York, treasurer; Mr. Richard B. Watrous, secretary.

The bureau of the United States census has just issued a preliminary abstract of its forthcoming annual report, entitled Statistics of Cities of over 30,000 Population. The abstract is based on data gathered for the year 1907.

Dr. Ford H. McGregor of the Municipal Reference Bureau, Madison, Wis., has prepared a complete bibliography of books, review articles, and newspaper discussions relating to the subject of City Government by Commission.

Students of administration will welcome the appearance of Leonhard F. Fuld's new book on *Police Administration: A Critical Study of Police Organization in the United States and Abroad.* (New York, G. P. Putnam's Sons, 1909. Pp. 551.) It is the most comprehensive work on the subject that has yet appeared in the English language and contains a great deal of interesting discussion.

During the last year or two there has been a marked increase in the number of American cities which publish official gazettes of their own. Among these regular publications are the Denver *Municipal Facts*, the Boston *City Record*, the San Francisco *Municipal Record*, as well as periodicals issued by Indianapolis and Philadelphia. The project of establishing municipal gazette is under consideration in several other cities, among them Providence, Baltimore, and Des Moines.

The municipal reference library of Baltimore, under the direction of Dr. Horace E. Flack, has prepared a series of short articles describing the outcome of recent attempts at charter revision in American cities.

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One of the direct results of the conditions disclosed by the Pittsburgh Survey was the appointment of a municipal commission on civic and industrial conditions. This commission which was appointed by Ex-Mayor Guthrie has commenced its work of planning and furthering improvements along the lines indicated by the survey, the required funds being raised by private subscriptions.

Another direct result of the Pittsburgh Survey has been the decision of that city to spend a large sum in civic improvements. At the November elections the voters of the city approved a project to issue bonds amounting to nearly seven millions of dollars to be used in financing various improvements which the investigations showed to be urgently needed.

The first election under Boston's new charter was held on January 11. The election disclosed some interesting features connected with the practical working of the new arrangements. It served to show that the system of nomination by petition does not necessarily multiply candidates, for the number of candidates was not larger than that to which the city has been accustomed under the old system of nomination by conventions or by primaries. The real contest lay between two candidates for the office of mayor and two rival slates of candidates for places at the council-board. It showed that the elimination of party designations from the ballots does not serve to break down party lines, but that it does serve to weaken party discipline and that it distinctly encourages independent voting. The election resulted in the return of Hon. John F. Fitzgerald by a small majority, although most of the business interests of the city were opposed to him. Of the nine councillors, however, seven of those elected represent interests opposed to the mayor.

On the heels of the new Boston charter a number of prominent citizens organized a movement which was given the title of Boston—1915. This movement represents an effort to coördinate and render more effective the work of all those various agencies and organizations which have as their aim the policital, social, economic, or educational advancement of the city. It has been found that there are, in the Boston metropolitan district, no fewer than 1400 such organizations ranging in size and importance from the chamber of commerce down to the smallest local improvement league. All of these have been at work in isolation, each pursuing its own aim without much reference to the efforts of other organizations. There has been, in consequence, a good deal of overlapping as well as much waste of energy in well-meaning but unproductive

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ways. The new movement aims to coördinate, through the establishment of a large and representative central body, the work of all these organizations. It is expected that, when occasion demands, the entire power of these 1400 agencies can be directed along some desired line and that this united effort can be made to accomplish what could not be achieved by the organizations working independently. The year 1915 has merely been chosen as the approximate date at which the city may reasonably look for actual results from the movement and it is from this that the movement takes its title.

One of the initial undertakings of Boston—1915 was the recent Municipal Exposition which proved a very striking success in every respect. The exposition represented a gathering together of data which served to illustrate what each one of the hundreds of local organizations was trying to accomplish. These exhibits filled four floors of a large building (the old Art Museum in Copley Square) and illustrated in a concrete and effective way the variety of the methods employed in civic betterment. The whole movement is based upon the idea of capitalizing public spirit in such way that it may be more efficiently employed.

The Economic Club of Brockton, Mass., has become sponsor for the draft of a model charter designed to suit the needs of any city of about 50,000 population. The model, which has been prepared after lengthy consideration by a committee of business men and former city officials is of high interest to all students of municipal government for it embodies an attempt to combine certain important features taken from the commission system of administration with various other features retained from the orthodox type of city government.

A somewhat similar charter, although differing in a few important features, has been prepared by a board of fifteen freeholders elected by the voters of Tacoma, Wash. This charter-draft departs from the commission plan in reserving administrative powers to the mayor, but it vests all legislative authority in a commission of five members.

Among recent publications in the field of municipal government are Dr. William Kirk's *A Modern City* (Chicago: The University of Chicago Press, 1909, pp. 375. $2.70), and Frederick A. Cleveland's *Chapters on Municipal Administration and Accounting* (Longmans, Green and Company, 1909, pp. 361. $2). The former is a study by various writers

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of the organization and activities of the city government in Providence, R. I., which the author terms "a fairly representative average American city struggling for light." The latter is a discussion of municipal finance and financial organization by one who is unquestionably the best-known municipal accountant in the United States. Other publications of interest are as follows: Jane Addams, *The Spirit of Youth and the City Streets* (New York: The Macmillan Company, 1909, pp. 162), a plea for the establishment of such neighborhood centers as may serve more effectually to interest those who find the streets of the city their only place of recreation. R. H. Whitten, *The Supervision of Street Railways in England and in Prussia.* Reprinted from the annual report of the public service commission for the first district of the state of New York. (Albany: 1909, pp. 76). James W. S. Peters, *Franchise Facts* (Kansas City: 1909, pp. 111). Charles Mulford Robinson's, *The Improvement of Cities and Towns* (New York: G. P. Putnam's Sons, 1909. Pp. 313.) and a third edition of the same author's *Modern Civic Art* (New York: G. P. Putnam's Sons, 1909, pp. 381). The National Municipal League has printed two pamphlets entitled *The Functions of Business Bodies in Improving Civic Conditions,* and *The National Municipal League's Work for Charter Reform.* The National Civil Service Reform League has recently issued an instructive pamphlet on *The Business Value of Civil Service Reform.* A pamphlet entitled *Comparison of Operation of the New York and Paris Subway Systems,* prepared by Robert H. Whitten has been reprinted from the *Electric Railway Journal.*

Recent books relating to the government of foreign cities are: A. Bussy, *La municipalisation des tramways* (Paris: Rousseau, 1909, pp. 343); Ch. Rabany, *Les sapeurs-pompiers communaux* (Paris: Berger-Levrault, 1909); E. Coutart, *Le rôle social du mont-de-piété* (Paris: Rousseau, 1909, pp. 170); Andre Mater, *Le socialisme conservateur ou municipal* (Paris: Giard & Bri re, 1909, pp. 622) and Otto Most, *Die Schuldenwirtschaft der deutschen Städte* (Jena: Fischer, 1909, pp. viii, 60). U. Lombardi, *La municipalizzazione dei publicci servizi* (Milan: Cordara, 1909, pp. 62); B. Schrenk, *Beitrage zur Statistik der Stadt Riga* (Riga: Jonck, 1909, pp. vi, 347). A. Geisser, *Fatti ed argomenti intorno alla municipalizzazione* (Turin: Societa Nazionale, 1909, pp. 149.

The Second Annual Conference on Methods of Instruction in Municipal Government was held at the Waldorf-Astoria in New York during the sessions of the American Political Science Association. Prof. F. J. Good-

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now of Columbia University presided. Hon. Clinton Rogers Woodruff, secretary of the National Municipal League, introduced the discussion by an address which dealt with the relation of collegiate instruction to the actual work of civic improvement and which set forth his own views as to the ends which instruction ought to have in view. Prof. J. A. Fairlie of the University of Illinois spoke of the need of a regular periodical devoting its columns wholly to the field of municipal administration, and Prof. A. R. Hatton of Western Reserve University suggested the advantages which might be obtained if a syllabus of instruction could be prepared in coöperation by various teachers of the subject. The need of a volume of selected readings on municipal government, and of a source book or compilation of working materials was also emphasized. Various other matters relating to the scope and methods of instruction were discussed by Professor Goodnow and Mr. Horace E. Deming of New York.

The Civic League of St. Louis issued in November, 1909, a report on *The Merit System in Appointment to Office* (pp. 23), primarily for the use of the boards of freeholders which is drafting a new charter for the city of St. Louis. This report presents briefly the arguments in favor of the merit system, indicates the extent to which this system has been adopted in other cities, and submits the draft of proposed charter provisions for the establishment of a civil service commission for St. Louis. The report calls attention to the fact that about four-fifths of the income of the city is applied to the payment of the salaries of officials and employees some six thousand in number, whose appointment "is left entirely to the judgment of the heads of departments or to political influences." In the large majority of cases, appointments since 1876, when the present charter was adopted, have been made "on the principle that public office is the fruit of partisan victory and that the right of appointment is determined by the service rendered a political party."

Two books entitled *Town Planning*, each by an English writer, have recently been published. One is by Raymond Unwin (T. Fisher Unwin, London, 1909), and is a somewhat elaborate study of the methods of city beautification, mainly in Great Britian, through street planning and the arrangement of buildings. The other is by H. Inigo Triggs, a British architect of high standing (Scribners, New York, 1909, pp. xix, 334). It contains chapters on types of ancient and modern towns, the circulation of traffic, town expansion, the planning of streets, planning of squares, open spaces, etc.

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Two doctoral dissertations have recently been published which deal with the municipal affairs of Paris. *Le Budget de Paris depuis 1870*, (Paris, A. Michalon, 1909, pp. 195), by A. Carré, is a careful study of Parisian finances since the establishment of the third republic. *Organization Municipale de Paris* (Paris, Jules Rousset, 1909, pp. 312), by Emile Maitre, is an analysis of the existing governmental organization with some discussion of proposed reforms.

The series of articles on Municipal Organization of the Capitals of Latin America inaugurated last year by the editor of the *Bulletin of the International Bureau of American Republics*, continues to run. The October number of the *Bulletin* contains an article on Bogota, a city of between 100,000 and 150,000 inhabitants and the capital of Colombia since 1561. Recently the municipality was abolished, since which time it has been governed as a capital district, by a governor appointed by the president of the republic and assisted by an administrative council of five persons also appointed by the chief executive. The city has, were a told, a modern street railway system and is the seat of the National University with faculties of philosophy, natural sciences, law, medicine and engineering, and of a national library containing 80,000 volumes.

The commission on expenditures authorized by the city council of Chicago, of which Prof. Charles E. Merriam is chairman, has undertaken an exhaustive inquiry into the recent expenditures of the city, the method of awarding contracts and similar matters. The commission has already made some rather remarkable discoveries concerning the slipshod, not to say dishonest, methods of letting contracts and it is safe to to say that still further disclosures will be made before the work of the commission is completed. The original appropriation for meeting the expenses of the commission, $10,000, was increased to $60,000 shortly after the first disclosures of graft were brought to light. Growing out of these disclosures was the introduction into the city council of an ordinance for the establishment of a bureau of information and publicity to collect and compile information relating to all the branches of municipal government and forms of municipal activity of the city of Chicago and of other municipalities, including all work done by and for them. The organization of the proposed bureau will consist of a commissioner, who is to be a member of the mayor's cabinet, a librarian, a chief statistician, and a corps of expert investigators.

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*The American City* is the title of a monthly journal started in September, 1909, and published by the American City Publishing Company, 93 Nassau Street, New York. The October number of this journal contains, among others, interesting articles on inefficiency in municipal work, public gymnasiums and baths, and on the proposed plans for the reconstruction of the city of Chicago.

## Home Rule in Michigan

JOHN A. FAIRLIE

The Michigan legislature, which was in session during the early months of 1909, was the first under the revised state constitution, which had been ratified at the preceding election. This legislative session served to demonstrate the success of many provisions in the revised constitution. The session lasted but four months, the shortest in Michigan for several decades. The printing of bills at least five days before passage, effectively prevented snap legislation, and the power of a majority of each house to withdraw a bill from a committee (although exercised but little), served to prevent committees from failing to report measures which were demanded. The restrictions on special legislation proved effective both in reducing to a marked degree the volume of enactments and also in securing the passage of three important bills carrying out other provisions of the constitution, and conferring large powers of home rule on the cities, villages and counties in that state. Other useful legislation was also passed; but the home rule acts form perhaps the most notable feature of the session, and are measures of significance which deserves attention in other states.

*Home Rule for Cities*. The revised constitution established the principle and foundation for municipal home rule, by definitely authorizing cities and villages to frame, adopt and amend their charters, and to pass laws and ordinances in regard to their municipal concerns. But legislation was required to prescribe the methods by which cities should act, and to establish limitations as to tax rate and indebtedness.

Several conferences were held of city officials, members of the constitutional convention and others, at which certain general principles as to the needed legislation were formulated. A number of bills were introduced in either house, and worked over by the committees. Each house passed a bill differing in important details; but in conference the

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measure finally agreed to, followed in the main a bill drafted by P. J. M. Hally, corporation counsel of the city of Detroit. As Mr. Hally is a democrat, the acceptance of the main features of his bill by a legislature almost unanimously republican, was particularly significant. But it should be said that his draft was the result of numerous consultations and conferences between city officials, members of the legislature, and others.

The act to provide for the incorporation of cities and for changing their boundaries, which now forms the basis for municipal government in the state of Michigan, consists of but 36 sections, and 31 pages. It first provides that each organized city shall be a body corporate, and that existing cities shall continue with all their present rights and powers until otherwise provided by law. Provision is made for the creation of new cities, and annexation of territory, by petition, action of the county boards of supervisors, and popular vote in the districts affected.

Charters of new cities will be framed by a commission of nine electors. chosen by popular vote. Revised charters of existing cities will be framed, after a vote of the electors in favor of revision (submitted by a two-thirds vote of the local legislative body, on an initiatory petition of 20 per cent of the total vote cast for mayor), by an elected commission of one member from each ward and three electors at large. Candidates for charter commissioners are to be placed on the ballot without party affiliations designated. Charter amendments may also be proposed by a two-thirds vote of the local legislative body, or by an initiatory petition of 20 per cent of the vote for mayor.

Every charter and charter amendment before submission to the electors, must be submitted to the governor of the state; but if disapproved by him, and passed on reconsideration by a two-thirds vote of the charter commission or legislative body, shall be submitted to the electors. Copies of charters and charter amendments approved by the electors of the city shall be certified to the secretary of state, and shall thereupon become a law.

The law names certain things which each city charter shall provide, and imposes certain restrictions on the powers of cities. There must be an elected mayor and a body vested with legislative power; the clerk, treasurer and assessors, and other officers may be elected or appointed. This permits the establishment of a commission system, or of a mayor and council with distinct powers. Provision must be made for the levy, collection and return of state, county, and school taxes, an annual appropriation for municipal purposes, and for a system of accounts.

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Provision may be made for municipal taxes and for borrowing money up to prescribed limits, and for the regulation of trades, occupations and amusements, for the purchase of franchises, for a plan of streets within three miles beyond the city limits, "for a system of civil service," for the referendum, and the following omnibus clause:

"For the exercise of all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be expressly enumerated or not; for any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants and, through its regularly constituted authority, to pass all laws and ordinances relating to its municipal concerns, subject to the constitution and general laws of the state."

Limitations include the following: Existing limits to the tax rates and borrowing powers to remain until a change is authorized by vote of the electors, with a maximum limit of 2 per cent of the assessed valuation for the tax rate and 8 per cent for loans; but, as authorized by the constitution, bonds may be issued beyond this limit for public utilities, when secured only upon the property and revenues of the utility. A sinking fund must be provided for bonds. A charter or charter amendment may not be submitted oftener than once in two years. The salary of public officials may not be changed after election or appointment. Certain municipal property may only be sold or vacated when approved by three-fifths of the electors voting thereon.

They act as a whole carries out the provisions of the constitution; and the limitations are as a rule reasonable safeguards against the abuse of power by the cities, although the procedure for securing a general revision of a city charter is unnecessarily difficult. The statute is longer and more explicit on some points than the constitutional provisions of states farther west which have attempted to define the methods for framing and adopting home rule charters in the state constitution itself. Yet the Michigan law is brief enough to be readily understood; and while some details seem rather uncertain, its main features are clear and distinct.

Action by the cities under this statute may be expected before long. Several cities are discussing general revisions of their charters; and a good many will submit amendments to laws under which they now operate. The experiments that will be made, and the experience gained under this system of self-government, will be well worth the notice of cities in other states.

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*Home Rule for Villages.* A separate act was passed for villages. This follows the main features of the law for cities, but omits some provisions and is somewhat briefer. There are a few differences of some importance. Village charter commissions will consist of only five members; and the maximum debt limit is 10 per cent. One section authorizes village charters to include any chapter, act, or section of the statutes of the state, which relates to the powers or government of villages, generally, either by reciting the same in the charter or by appropriate reference thereto. It seems probable that many villages will use this authority and follow in their charters the former general laws for the government of villages.

*Home Rule for Counties.* The Michigan constitution of 1850 authorized the legislature to delegate to the county boards of supervisors local, legislative and administrative powers. But the powers conferred hitherto have been, as in other states minutely conferred, and conferred no important legislative authority.

In the revised constitution of 1908, the former provision was continued. But the restrictions on the passage of special and local acts by the legislature and the influence of the discussion on the home rule bills for cities and villages, led to the grant of substantial powers of local legislation to the boards of supervisors. This was done by an act amending one section of the former law in regard to such boards, adding several rather lengthy clauses to this section.

Under this new act, the boards of supervisors are given power: "to pass such laws, regulations and ordinances relating to purely county affairs, as they may see fit, but which shall not be opposed to the general laws of the state, and shall not interfere with the local affairs of any township, incorporated city, or village, within the limits of such county, . . . . . to amend any local act of the legislature in force in their country and referring to matters within the jurisdiction of such board of supervisors, or touching the local powers and duties of county officers, . . . .; to change the limits of cities, villages, and school districts within such county as may be provided by law, . . . and may incorporate primary school districts."

Laws, ordinances, and regulations, under this paragraph, must be submitted to the governor for his approval; and if disapproved, must be repassed by a two-thirds vote to become a law. Such laws, ordinances and regulations shall not take effect until sixty days after the adjournment of the board, and if within fifty days a petition for a referendum is presented, signed by 20 per cent of the electors in the

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district to be affected, it shall not take effect until approved by a majority of the electors of the district affected voting thereon.

Certified copies of such acts of the boards of supervisors are to be filed with the secretary of state, who shall index and publish all such acts annually in a suitably bound volume.

Some specially significant features of these laws may again be mentioned for the sake of emphasis. The powers granted are conferred in broad, general terms, in sharp contrast with the prevailing system of minutely specified powers, which has hitherto existed in Michigan no less than in other states. The provision for the popular initiative in charter amendments and for calling a charter commission in cities and villages, introduces the method of direct popular legislation into municipal government: while the provisions for referendum votes in cities, villages and counties, on charters, charter amendments and acts of the supervisors permit a great extension in the system of popular ratification.

A somewhat novel feature in connection with legislation by local authorities, is the submission of such measures to the governor for his approval, and in case of disapproval, the requirement of a two-thirds vote of the local body, as in the case of bills passed by the state legislature. It may be noted too that this provision applies also in the case of charter amendments proposed by popular initiative.

Lastly, there should be noted the provision for filing certified copies of city and village charters, charter amendments and acts of the boards of supervisors, with the secretary of state and for their official publication. This serves to place these instruments on public record, makes them more available for comparison, and should emphasize their standing as laws, of which the courts should take judicial notice.

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# BOOK REVIEWS

*America and the Far Eastern Question.* By THOMAS F. MILLARD. (New York: Moffat, Yard and Company. 1909. Pp. xxiv, 576.)

"Since the publication in March, 1906 of *The New Far East,* says Mr. Millard in the preface to the present work, "I have again twice visited the regions included in the scope of the Far Eastern question, and have further observed and studied conditions there. The present work takes up the situation where my previous book quitted it."

Those who have read Mr. Millard's first book will take up the reading of the second with a sense of preparedness for the general anti-Japanese tone of the author. Mr. Millard attempts to forestall adverse comment by assuring us that the work is not "an anti-Japanese preachment" in the sense that a desire to injure Japan is among its objects."

The desire not to injure Japan takes the somewhat negative form of desiring merely to see Japan balked in those national aspirations which he believes "tend to cause international dissension and strife by impairing interests of other nations." Only let Japan not step on anybody's toes in pushing her commercial and political advantages in Manchuria, Korea and the Philippines and Mr. Millard would doubtless present the virtues of her citizens in as glowing terms as he has here pictured some of their faults. He admits that the Japanese have admirable traits of character, common to all peoples, but he does not spend time in making them known; it isn't necessary he thinks for "favorable aspects of Japan have been presented by a thousand writers and are kept before the world by an organized publicity with which no individual can compete."

Mr. Millard is apparently cynical with respect to human nature when it is brought into contact with statistics: he has shunned them in large measure and when compelled to make use of them has exercised his own judgment "in accepting or rejecting figures presented by governments and individuals." Statistics are often "prepared to sustain an hypothesis;" this perversion of the truth he regards as more prevalent in the East than elsewhere and as especially true of Japanese statistics

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which relate to the economic and fiscal situation of the country. Hence the author "exercises his own judgment" in making his selections. This fact, combined with the generally unfavorable impression of Japan's course which book conveys, rather inclines the reader to agree with Mr. Millard's cynicism, and to suspect him of the weakness he attributes to others.

The gist of the Eastern question for the United States Mr. Millard sees in the fact that we have reached a turning point in our history and that we need new markets to prevent the arrest of our development; the logical place to find them is in an awakened Orient, teeming with millions only waiting to be educated up to the proper standard of needs. But we are in grave danger of losing our natural advantages through the machinations of the Japanese—or as some may prefer to think, through the use of their natural advantages. Japan's economic policy, her foreign relations, military and naval strength and fiscal situation are discussed to show that the evolution of modern industrial Japan has resulted in centralizing the great industries in the hands of the State itself or members of the royal family and government. The foreigner, attempting to carry on business in Japan, Manchuria and Korea, finds himself in competition with a Japanese government monopoly which uses the steamship and railroad lines against him; he is discriminated against in a great variety of ways which Mr. Millard presents in detail, all going to show that the Japanese are employing unfair and unlawful methods to secure control of the commerce of the East.

Korea and Manchuria, but particularly the latter, are chosen as the chief field for the author's display of Japanese aggressiveness. The "open door" is presented to us as a nullity by reason of the railroad and steamship subsidies, discriminations in import and taxes and preferential treatment of Japanese.

The policy of the Japanese Government has been to strengthen its hold in every possible way upon Manchuria and the railroads have played a conspicuous part in its efforts. Russia is regarded as favoring the same policy in northern Manchuria that Japan does in the southern part of the peninsular, so that for the present they are more likely to act together as against China's rightful assumption of control than to renew their struggle in arms.

In reformed and awakened China Mr. Millard believes that the United States has a profound interest both because of the possibility of gaining new markets and of losing the old, and therefore the need for sympathetic treatment of China that the development may go on under our supervision.

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The work closes with a discussion of the Philippines which will be neither a "burden" or a "problem" in the author's judgment if Congress will enact intelligent and fair laws. Increased military forces and the establishment of a great naval base are needed, we are told, if the United States would be prepared to hold the Phillippines against a Japanese attack.

E. G. ELLIOTT.

*Our Foreign Service.* By FREDERICK VAN DYNE. (Rochester: The Lawyers Coöperative Company. 1909. Pp. 284.)

This "A-B-C of American Diplomacy" was manifestly prepared for the man with an ambition to enter our foreign service. For him the book will be of exceptional interest. Nowhere else, indeed, will he find so ample a general description of the present-day organization and work of the department of state and its two allied services. Works relating to the same subject, or rather to portions of the field here covered—*The History of the Department of State*, Jones' *Consular Service*, and numerous books concerning the diplomatic branch, such as Foster's *Century of American Diplomacy*—are in the first place chiefly historical, and in the second are written with the primary interest in the principles involved, or in the results accomplished: Mr. Van Dyne's little treatise deals almost exclusively with the present, and its interest lies in the officer who acts.

The first chapter gives a concise account of the general matters which fall within the sphere of the department of state proper, and the various duties of the Washington officers and bureaus. The larger space devoted to the diplomatic service in chapter ii, gives an opportunity for the discussion of the method of appointment, the privileges, immunities, salaries and qualifications as well as of the aims and duties of diplomats; but too little attention is paid throughout to the subordinate officers, who alone are apt to enjoy a true career in the service. The third chapter, on the consular service, is the best portion of the book and offers a comprehensive and intimate view of the condition of the service and of the work which its various members are called upon to perform.

The remainder of *Our Foreign Service* is of varying merit. The chapter on citizenship should not have been added, since it is an exposition of substantive law without such direct reference to the duties of administrative officers in connection therewith as to be in agreement with the com-

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mon tenor of the book. The final chapter, on the literature of the subject, contains a good bibliography of publications on American international law; but it is difficult to believe that it would not confuse the unfamiliar student who aspires to a position in our foreign service, rather than offer him the "few suggestions concerning the course of study to be pursued to fit him for this work" which the author thinks appropriate. The appendix, one quarter of the volume, consists of a reprint of the *Register of the Department of State* current at the date of publication, which can always be obtained upon request from the department.

Of others besides aspirants to office to whom it is addressed, the work is too elementary to be useful to diplomatic and consular officers generally, and, let us hope, to be of "especial value" to those newly appointed, who have been through the rigorous preparation for examination now required of all save the higher diplomatic candidates. The work is too lacking in essential technicalities to interest the legal profession. On the other hand, it will probably be found useful as a first-book in courses on administrative law; and is sufficiently full of anecdote to attract the general reader.

*Effects of War on Property: Being Studies in International Law and Policy.* With a Note on Belligerent Rights at Sea by John Westlake. By ALMA LATIFI. (London: Macmillan and Company. 1909. Pp. x, 155.)

The author, an English barrister, has prepared an excellent little manual with the emphasis on topics which have not hitherto received much attention from writers on international law. He does not consider contraband of war or blockades, but limits himself to the effect of war on property in which seizure without any other circumstances transfers the legal title to possession. Those cases in which a decision of a prize court is necessary before the property ceases to be legally the property of the previous owner are wholly excluded. So many of the old controversies among the authorities on international law have been settled by the recent Hague conventions and the Geneva Convention of 1906 that there was pressing need of a work which should reconcile opinion and legislation. The clear, precise statement of law drawn from the recent conventions and court decisions furnishes a healthy reaction from a great deal of the literature on international law which rests on labored arguments drawn from theorists and conflicting authorities.

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A few of the headings will indicate the tendency to treat subjects which have arisen out of changing economic or social conditions: The Effect of War on Debts Due from Individuals to the Enemy State, on Private Property Belonging to Subjects of the Enemy States in a Belligerent's Own Jurisdiction, particularly "life-insurance contracts" and "negotiable instruments" (pp. 39–59); The Effects of Conquest, The State as a Private Corporation, Concessions, and the Status of Posts, Mail Steamers and Submarine Cables.

It is interesting to learn that the "new state of Panama has invested a portion of the sale price of the site of the Panama Canal in house property in New York. The United States has thus, without any effort on its own part, obtained a very effective pledge for the future good behavior of its protégé" (p. 20).

The final chapter on The Inviolability of Private Property at Sea, which is practically in the same form that it appeared in *East and West*, July, 1907, upholds the British doctrine and national policy against the Continental with the most convincing and frankly partisan presentation of that side of the case I remember to have read. In the author's judgment the capture of private property at sea is the "least cruel of all the practices allowed in war" (p. 123), and the effects of captures are spread over the whole community of merchants and ship owners by the prevailing system of war insurance. "Captures at sea," he says, "are in this way assimilated to contributions on land" (p. 127). He suggests that the method employed by France in 1870–1871 for private losses on land converting them into national losses by indemnifying its own subjects might be extended to losses at sea by state indemnities or state insurance. Such a system of state insurance would, he thinks, give the subject at the same time the benefit of lighter premiums than are given by private insurance companies (p. 125).

Without doubt one of the strongest arguments advanced by the advocates of the present practice toward private property in time of war arises from the almost universal custom of state contracts with merchant vessels and particularly with mail steamers to convert them into cruisers. As Count Caprivi said in the reichstag in 1892, "If hostilities began, it would be absurd that these vessels should be allowed quietly to steam into the ports of their own nation to unload their cargoes and then refit for action." Mr. Latifi has reduced the question to one of political expediency and takes the view that Great Britain would be the distinct loser in a change in the law. "The movement towards the abolition of the right to capture private property at sea has been supported by many

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men whose humanitarian motives it is impossible to doubt, but the moving springs of the policy of nations are deep-based in their solid self-interest. They are not to be found in the abstract principles preached by professors or embodied in the resolutions of peace congresses. By accepting the principle of the inviolability of private property at sea, you would be inflicting a blow upon our naval power, and you would be guilty of an act of political suicide. The change would mark the sunset of England's greatness and her fall from the high place amongst the nations of the earth" (p. 143).

Professor Westlake contributes an eight page note on Belligerent Rights at Sea to give the weight of his authority to the conclusions of the writer. To him the proposed "extension to the sea of a principle admitted on land" is a "topsy-turvy" policy which is based on a false analogy because the immunity of private enemy property is not itself by any means absolute on land (p. 147).

One is convinced at the conclusion of a careful reading of the arguments of the advocates of immunity of private property at sea and the opponents of the same that there is a fundamental difference of purpose which has been unconsciously overlooked. The parties divide themselves into those who would deal an effective blow at all unscrupulous advocacy of war for gain by depriving all of the one remaining chance, particularly the naval influences, and thus to make war improbable save in a very few causes, and on the other side those who regard war as inevitable in the present state of society and who would retain one of the strongest impulses in waging war in the interest of national defense.

ELBERT J. BENTON.

*Die Verwaltungsrechtswissenschaft Beiträge zur Systematik und Methodik der Rechtswissenschaften.* By DR. LUDWIG SPIEGEL. (Leipzig: Duncker and Humblot. 1909. Pp. viii, 222.)

The tendency towards subdividing all subjects of inquiry and regarding each as a separate science finds expression in this recent work from the pen of Professor Spiegel of the University of Prague. As the title indicates, Dr. Spiegel seeks to establish administrative law on a completely independent scientific basis. The work sets forth the task of a science of administrative law and discusses the relations between this science, if science it be, and other branches of legal study, including constitutional law, private law, criminal law and the law of procedure.

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After treating of the historical development of administrative law as a subdivision of constitutional law, the author urges that the time has now come for the complete separation of the two. Though the problems with which each deals arises from the same phenomena of governmental activity, the two examine these phenomena with different ends in view.

Thus runs the argument. The theory of the separation of governmental powers has been exploded. Governmental power is a unit. But in each state this power must be exercised through various agencies. Constitutional law deals with the relationship of these agencies to each other and to the citizen body and seeks to find the proper balance between them. It asks in each case: "Through what agency shall power be exercised?" To discover the task of administrative law, we must first start with some conception of administration. The scholar is free to select that which seems to him best. Its validity must be tested by the results obtained. Too narrow are the conceptions derived from the study of constitutional law—for example, that administration is merely the activity of administrative organs, or all governmental activity with the exception of legislation, or with the exception of legislation and judicial decision. That conception should be chosen which is most universal. One unbiased by the study of constitutional law must regard administration as including every activity of the state. The object of administrative law, therefore, is to set forth the legal rules which obtain for all governmental activity. "What shall be done?" asks administrative law. Constitutional law contents itself with the inquiry: "Who shall do it?"

Thus modestly administrative law asks to be released from the shackles which have prevented its free and systematic development within the confines of constitutional law. For constitutional law, insists Dr. Spiegel, since it deals with the relationship between a given set of governmental agencies, must ever remain the law of a particular state. But administrative law is concerned with all phases of governmental activity. "The tasks which the state has to perform have in the course of thousands of years increased so tremendously that administration with perfect right can say: '*Nihil humani a me alienum puto.*'" Since these activities are common to different states, there is a universal as well as particular administrative law. Both deal with the same material. But particular administrative law treats as homogeneous only those *Rechtsnormen* which serve some special end of administration (highway law, school law, etc.), while "universal administrative law examines each single phenomenon of administrative law to discover

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therein the universal element existing in all forms of administrative law." To our surprise, the author adds that this universal knowledge must be developed not deductively from *a priori* concepts, but inductively from positive law, "*ex jure quod est.*"

Such is the basis and method of treatment,—abstract and logical, rather than genetic or descriptive. A work more foreign to the temper of the American jurist could not readily be imagined. We lag too far behind in abstract consideration of law as a whole to indulge as yet in any such treatment of special topics. And our habit of thought makes us prone to look askance at wide generalizations deduced from such rarefied abstractions and leaves us skeptical whether such philosophical speculation has any practical value in advancing the study of our subject.

The author's conception of law nowhere definitely appears. But he seems to look beyond any system of rules promulgated by some body clothed with authority to certain ideal canons of governmental policy. Legal critics who seek their law in a more tangible source would prefer the title of *Die Verwaltungswissenschaft.* And if the work is to embrace a consideration of the rules governing every activity of the state, its scope would be more fairly indicated by *Die Wissenschaft des öffentlichen Rechts.* In truth, the author, in his endeavor to discover what administrative law really is, *in rerum natura,* seems merely to have applied a special term to the study of those relationships which have long been grouped under the more general one.

Professor Spiegel's delimitation of the respective spheres of constitutional and administrative law could never have been reached by induction. It clearly cannot be applied to American conditions. It is presumptuous to withhold from constitutional law any interest in the question what functions the government shall undertake when those functions are found defined and limited in the constitution itself, and the bulk of what for years we have known as constitutional law is concerned with these very questions. American scholars will be more inclined to leave to constitutional law the field it already possesses and adopt as the basis of their work in administrative law a more restricted definition, such, for example, as that of M. Journe, who regards *droit administratif* as "that branch of the public law which studies how the executive power administers the state with the coöperation and under the control of the legislative power." This will confine administrative law as well as constitutional law to the consideration of existing governmental agencies and preclude the possibility of a science of universal administrative

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law dealing with norms of law in control everywhere. This conception of universal law, based on the analogy of the natural sciences, seems to leave out of account the element of human volition and caprice, involved in all positive law. We shall do well if ever we develop satisfactorily a science of comparative administrative law.

THOMAS REED POWELL.

*An Introduction to the History of the Development of Law.* By HON. M. F. MORRIS, Associate Justice of the Court of Appeals of the District of Columbia (Washington, D. C.: John Byrne and Company, 1909. Pp. 315.)

In the preface we are told that this book is "the outgrowth of some lectures delivered several years ago before the post-graduate class of the University of Georgetown;" and that it makes "no pretensions to originality or novelty." It may be added that there is little evidence that the author is acquainted with the critical literature of any of the many subjects with which he deals. Except the prefatory acknowledgment of "great indebtedness to Messrs. Pollock and Maitland's *History of English Law*, and to Prof. Guy Carleton Lee's admirable work on *Historical Jurisprudence*," there are no citations of modern authorities, while the references in most cases to ancient writers or codes are evident at second hand. There are no footnotes. Judge Morris believes, apparently that bibliography is not a vital part of a subject in modern graduate study. Indeed, the dogmatic tone of the old-time lawyer, who ignores the lay literature, pervades the volume. It is astonishing with what serenity the learned judge treads a field, bristling with hard problems, which the trained scholar approaches only with fear and trembling.

The first chapter, on the Origin and Nature of Law, and the Law of Nature, is a curious product of antediluvian beliefs and arrested education. The author's scientific fitness for the delicate task which he has undertaken may be judged from an opening paragraph:

"Whether we accept the fashionable, but in this regard wholly unsupported and irrational theory of evolution that would develop civilization from barbarism, barbarism from savagery, and the existence of savage men from a simian ancestry, or whether we adopt the more reasonable theory, sustained by the uniform tenor of all history, that barbarism and savagery are merely lapses from a primordial civilization,

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we find man at all times . . . . in subordination to some rules of law more or less fixed, and recognized by him to be binding upon him, even though he has oftentimes been in rebellion against some of their provisions."

The author is a thoroughgoing believer in the creation theory. He has no use for the doctrine of social evolution. The "Creator of the human race" he tells us, "is the fountain and source of all law." From "the Creator alone all human law derives its sanction; without reference to the Creator there can be no justification for the existence of human law." Accordingly he criticises "some American writers," who he alleges have shown favor to the "compact theory" because they are "fearful to find a common source for religion and politics, the Church and the State, . . . . in one original mandate from God to man, and who therefore are reluctant to go back to Sinai or to Eden for the source of our municipal, as well as of our religious law." We are favored with a half-theological discussion of the "law of nature," that is, of "God's law," from which "are derived all our rights and duties;" but we find no evidence that the writer is acquainted with the interesting literature dealing with the theory of the law and state of nature," especially with that part of it which has appeared since Sir Henry Maine's epoch-making criticism in 1861. Savages, he is careful to tell us, live, not in a state of nature, but in a state of criminal degradation far removed from the condition which the God of nature had intended for man. . . . . Of course, the rude usages of savages living in a state of degradation and infamy, is no proper criterion of the law of nature."

If the author's scientific attitude is mediæval, his temper is hardly judicial. The theory of the divine right of kings he calls "an infamous doctrine," which nevertheless was maintained by the "English government in the days of Plantagenet, Tudor, and Stuart sovereigns, and down to that comparatively modern time, . . . . when Oliver Cromwell and his merciless horde of pious ruffians and shrewd fanatics shattered the theory forever on the bloody battlefields of Naseby and Marston Moor." The scholar who really knows English history will not ask that a writer shall ardently admire the characters of some of the English kings; but is not this a trifle strong? "Though some of them were men of ability, there can nowhere else be found a series of rulers so utterly unprincipled and dishonest than (*sic*) the monarchs of England, with only three or four exceptions, from William the Conqueror to William IV." One need not love Henry VIII, and yet hesitate to assert, even before a "post-graduate class," that he "was easily the worst of all the ruffians that ever wore a crown" (p. 263).

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Chapters ii to vi inclusive are devoted mainly to summaries of various ancient legal systems, beginning with the "Mosaic law" and ending with the development of the law in Rome." Everywhere the treatment is conventional; and everywhere one seeks in vain for an illuminating discussion drawn from the abundant critical literature. Thus in trying to explain the origin of the "tribal organization of Israel" (p. 37) or that of polygamy and monogamy (pp. 34, 128–29), what opportunities were afforded to draw upon the enormous mass of research which is now devoted to matrimonial institutions and tribal systems in all parts of the world! One might infer from the tone of Judge Morris's discussions of social origins that a tribal organization might be made or perpetuated by Moses, or be handed down from Jehovah to the Jews ready-made like a suit of store-clothes. In like spirit, he declares that "the Israelites in general remained an agricultural people until the latest day of their national existence. For this reason, and because it was probably so intended by Moses, inasmuch as the tendency of commerce is to substitute Mammon for Jehovah, there is no great space devoted to personal property or to the matter of contracts in the Mosaic legislation." No allusion is made to the fact revealed by modern research that the Jews first gained a liking for trade during the period of the Babylonian captivity.

Similar shortcomings abound. A fair account of Babylonian laws is given. Their surprisingly high social and ethical quality is appreciated: but how much more exact and full of meaning the discussion might have been had the author made use of the code of Hammurabi (2250 B. C.), revealing as it does a civilization far in advance of that of the Jews in the days of Abraham. To this code no allusion is made. In the discussion of the laws of Athens, far too much is made of the court of the Areopagus which ceased to be of much importance before the age of Pericles; while no mention whatever is made of the procedure before the dikasts in the Heliastic courts, the most significant feature of the judicature of Athens.

A pretty good outline of the salient facts in Roman legal history may be found in the sixth chapter; but the narrative is uncritical and sometimes very inaccurate. For example, it is not correct to say that the senate was "always selected from the Patricians" (p. 151). It is misleading , to say the least, to define *jus gentium* as "the law of the nations, or international law;" and it is a serious error, if thus it is intended to say that the *jus gentium* was "international law" in the technical sense. It is hardly critical to accept at its face-value the story that the

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Twelve Tables were influenced by the laws of Solon. What must one think of such statements as these regarding the *Corpus Juries Civilis* of Justinian?

"The Digest is an elementary treatise on the whole law, intended alike for the use of students and for the use of those who administered the law; and it is a revision and condensation of all the previous authoritative commentaries on the law into one consistent whole. It contains seven parts, subdivided into fifty books; and it follows in the main the plan of Gaius in his commentaries, which are very often cited and quoted" (pp. 175–76). On the contrary, in a general way, the plan of the Digest follows the order of the praetorian edict; and to call the Digest an elementary treatise" is certainly quite original. The *Institutes of Justinian* are described as if that manual were wholly a new composition; while in that connection no reference at all is made to the work of Gaius, bearing the same title, upon which chiefly the *Institutes of Justinian* are based. The Novels are called an "appendix or supplement," containing "various laws and ordinances that had been omitted by inadvertence from the Code or Digest. Does not Judge Morris know that the Novels are new statutes (*novellae constitutiones*) enacted after the other parts— the *only* parts proper— of the *Corpus Juris* were completed and that the collection of them is a matter of much later date?

Clearly the author is not properly equipped for the safe discussion of ancient law. In that part of his book devoted to the history of English law, he is more at home; and for the hardest problems he has wisely accepted the guidance of Pollock and Maitland. Yet this part is marred by violent judgments due to his strong religious bias. It is much to be regretted that Judge Morris consented to publish these lectures; and it is a public misfortune when college students are given such uncritical guidance.

GEORGE ELLIOTT HOWARD.

*The Federal and State Constitutions, Colonial Charters, and other Organic Laws of the States, Territories, and Colonies now or heretofore forming the United States of America.* Compiled and edited under the act of Congress of June 30, 1906, by Francis Newton Thorpe, Ph.D., LL.D. (Washington: Government Printing Office. 1909. 7 vols.)

In the printing of texts Dr. Thorpe has in the main followed Poore's plan of giving a constitution and then following it with amendments

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in chronological order. This arrangement is the most satisfactory, especially when notes are given to each text indicating where amendments have been made; with reference to notes of this character the method of editing has not been uniform; for example, footnotes call attention to the amendments made in the California constitution of 1879, but there are no such notes to the Arkansas constitution of 1874.

Even in the printing of constitutions and their amendments, the editor has not followed a uniform plan throughout his work. Several cases occur in which constitutions are printed as in force in 1907, with the amendments inserted into the original text; the constitutions of Maine (1819), Michigan (1850), New Jersey (1844), and West Virginia (1872) are thus given in the body of the work, and the original texts with amendments arranged separately in chronological order, are printed in an appendix. The New Hampshire constitution of 1792 as originally adopted is given in the body of the work and after it are printed subsequent amendments in chronological order; the full text of the amended constitution as now in force is then given. The unnecessary and useless duplication of the texts of these five constitutions adds more than one hundred pages to the collection. The Minnesota constitution of 1857 is given as now in force, but the original text is not given, and the collection furnishes no satisfactory method of tracing the development of this instrument; the same statement may be made with reference to the Kansas constitution of 1859 and the New York constitution of 1894. In editing the California constitution of 1879 the editor seems to have displayed great ingenuity; here some amendments are inserted into the body of the text, and others are placed after the text, not chronologically but according to the order of the articles which they amend; here also it is impossible to trace the development of the constitution. The constitution of Ohio (1851) is printed in the body of the work as amended and now in force, but in this case the development of the constitution may be traced with the aid of matter printed in the appendix. In the work there is nothing to put the user on his guard as to which method of editing has been followed; in fact no method has been employed, but the texts seem to have been printed in any form in which they came into the editor's hands.

Inasmuch as Dr. Thorpe's work is a revision of Poore's *Charters and Constitutions*, it may be well to indicate the extent to which he has introduced new material. The period from 1876 to 1907 has been covered for the first time; the Oklahoma constitution of 1907 is

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printed in the appendix. In addition to printing state constitutions and amendments subsequent to Poore's collection, Dr. Thorpe has also introduced much new matter relating to early colonial history, and has published the Albany plan of union (1754) together with some other documents of importance. There seems no real reason for including some of the ordinances of the Missouri (1861–63) and Mississippi (1890) constitutional conventions; these conventions and many others of the revolutionary and reconstruction periods practically acted as legislative bodies and passed ordinances which had the force of law, but such ordinances do not properly belong in a collection of charters and constitutions; to have printed all of such matter would add several volumes to a collection already too large. It is interesting also to find the much discussed Mecklenburg declaration of independence given in a collection of this character without a clear warning as to the evidence against its authenticity. Mr. Batchellor's historical note to the New Hampshire constitution is valuable, but seems somewhat out of place in a collection of texts.

As has been suggested, there is some duplication of texts, and some material is included which might better have been omitted. It is unfortunate that space should not have been found for the publication of documents relating to the provisional state governments of 1775–76; for example, the temporary constitution adopted by Georgia in the spring of 1776 (Force, *American Archives*, 4th series, V, 1107) should be included in any complete collection of constitutional texts.

Dr. Thorpe has verified all the documents contained in Poore's collection, and his work should therefore present more accurate texts of the older constitutions; however, he follows Poore in omitting the Delaware bill of rights of 1776, and this fact would seem to cast suspicion upon the character of his verifications. He corrects some of the more obvious errors in Poore, as with reference to the Iowa constitutions of 1846 and 1857, but in other matters he is content to copy Poore's mistakes; so we find the erroneous statements that the Alabama constitution of 1819 and the Mississippi constitution of 1832 were submitted to the people. In his statement that the Florida constitution of 1838 was not submitted to the people, Dr. Thorpe is also in error. For the period since Poore a number of errors are also noticeable. The Arkansas proposed amendments nos. 2 and 3 on page 373 did not become part of the constitution of that state. (Knight v. Shelton, 134 Fed. 423; Rice v. Palmer, 78 Ark. 432). No reference is made to a California amendment of 1892 regarding municipal charters, and a

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Delaware amendment of 1893 is omitted. Article IV, sec. 36 of the Minnesota constitution was adopted in its present form on November 8, 1898; however, the 1898 amendment was simply a modification of an amendment of November 3, 1896, but there is no indication of this fact. The organic act of the District of Columbia adopted in 1878 is printed without any reference to the fact that much of it has been repealed by later legislation. The Florida constitution of 1885 is printed as in force in 1898, although it had been amended seven times between 1900 and 1904. All of the errors mentioned above have been discovered in the casual use of Dr. Thorpe's collection during the few months since its publication. It is probable that further use will disclose still other errors.[1]

Enough has been said to indicate that the new edition of the *Charters and Constitutions* has not been properly edited. The collection must, however, be used by students, because the more recent state constitutions are not easily available elsewhere. It is perhaps sufficient to suggest that the work is untrustworthy and should be used with care.

W. F. DODD.

*Legal and Historical Status of the Dred Scott Decision.* By ELBERT WILLIAM R. EWING. (Washington, D. C.: Cobden Publishing Company. 1909. Pp. 228.)

This book is written to show that the decision in the Dred Scott case was eternally right. The author himself states as its purpose the demonstration that the charges against the decision in the case "are without foundation in law or history; that the decision of each question was valid and binding law; that the repudiation became the most pronounced nullification" (p. 7).

With this frank statement of its intention one is not surprised that it is not conceived in an historical spirit. In fact it breathes so much of the ante-bellum fire against the North that one is surprised at the date of publication on its title page and would think it a long unpublished manuscript were it not for internal evidence of its recent composition. This spirit which pervades the book is illustrated by a few phrases taken at random: "The North was lashed into a fury in the belief engendered by the hypnotic power of the exacerbationists" (p. 51); "the irrefutable

[1] With reference to errors in the colonial documents and charters the reader should consult Prof. J. Franklin Jameson's review of Dr. Thorpe's work in the *American Historical Review* for October, 1909.

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logic of Chief Justice Taney" (p. 77); "the record made by collusion between scheming Republicans" (p. 113); "the Republican party became pronounced rebels against our government" (p. 185).

With such a purpose and such a spirit it is not surprising to find a constant inaccuracy of statement, which is not so much of absolute error in the facts but rather a warping of the facts to suit the preconceived point of view. This so permeates all parts of the work that an examination of it would involve a detailed consideration of the whole book. It is, however, evident that the method used completely vitiates its value as an historical or legal treatise.

It may be admitted that much that has been written about the Dred Scott decision has been unfair to Taney and his associates of the majority: that undue emphasis has been laid upon the so-called dicta in some of the opinions; that the chief justice occupies a much higher position as a jurist and patriot than is accorded to him by many historians. But the errors of some of those who have written on this subject do not justify an opposite extreme illustrated by a statement that "From that day on down to the present the principles upon which the Dred Scott decision rests have more and more been recognized as the distinctive features of our government" (p. 122).

If a corrective to the unwarranted views which have been held by some writers concerning the Dred Scott case be needed the present work fails to furnish it in any proper manner. It displays neither the legal or historical knowledge, nor a sufficiently calm or judicial temperament to entitle it to serious consideration in the literature dealing with the slavery question.

JOHN B. SANBORN.

*The New Encyclopedia of Social Reform, etc.* Edited by WILLIAM D. P. BLISS and RUDOLPH M. BINDER, Ph.D., with the coöperation of many specialists, etc. New Edition. (New York and London: Funk and Wagnalls Company. 1908. Pp. vi, 1321.)

It takes scarcely ten years to put a sociological encyclopedia "out of date," and an out-of-date encyclopedia is as unsatisfactory as a medieval costume is unfashionable. The public will therefore welcome Mr. Bliss's *Encyclopedia*, which he calls *new* in order to dispel the impression that it is merely a second edition of a work under the same title which he issued ten years earlier.

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The production of a good encyclopedia in a special field of knowledge is no easy task. Such an encyclopedia should be complete and accurate as well as up-to-date, and its contents should be so arranged as to be convenient for reference. In some of these respects the present work is not altogether satisfactory.

With regard to accuracy it is unfortunate, to say the least, that so many proper names have been given incorrectly,—among them those of Edward T. Devine, S. M. Lindsay, Morris Hillquit, William J. Kerby and Léon de Seilhac. Nor is it strictly true that "the best sources have been used for statistics," when such second-hand sources as the *World's Almanac* are used in preference to easily obtainable official reports. Moreover, if the proof-reading of the statistical tables has not been done more carefully than that of the text in certain places, it would be unwise to make use of them without verification. Quite as objectionable are the incomplete references. Thus, for example, on page 7, readers are referred to the *Census Bulletin* without indicating the number or date of the bulletin.

With regard to "up-to-dateness" it must be said that not all of the articles on important subjects are as satisfactory as they easily might have been. The article on Immigration, for instance (some readers of which will be amused to learn that the tariff causes immigration because it is "easier for the workman to come than the goods which he produces"), contains no figures later than those for the fiscal year 1905. Not a word about the new immigration law of February 20, 1907; nor concerning the new Department of Information for encouraging the better distribution of immigrants; nor about the important public and private agencies created during the past three or four years for similar purposes. Such facts as these might well have been substituted for Ernest Crosby's sentimental lines from the *Arena*.

As for completeness, it is difficult to detect the principle of selection which prompted the inclusion of biographies of William Abraham, J. G. Addersley, T. C. Albrecht, William Allan, S. V. Anikin, R. Applegrath, David Arboux, Joseph Arch—to confine ourselves to those under "A"—and led to the omission of such names as H. C. Adams, Robert De Forest, E. Demolins, Emile Durkheim, Henry W. Farnam, Francis Galton, Ludwig Gumplowicz, Paul Lilienfeld, Julian W. Mack, Frédéric Passy, Karl Pearson, John M. Robertson and Gabriel Tarde.

In spite of these deficiencies and defects the work as a whole is extremely serviceable. It contains an abundant mass of material and a very large number of biographical sketches, quotations, statistical

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tables and bibliographical references that would otherwise be exceedingly difficult to obtain. Some of the articles are admirable discussions of the topics they treat,—for instance, those on Anarchism, Arbitration and Conciliation, Labor Colonies, Open or Closed Shop, and Taxation. For the general reader the volume is a suggestive guide, and for the specialist a convenient book for handy reference. Dr. Bliss is entitled to the gratitude of both. C. W. A. VEDITZ.

*A Modern City: Providence, Rhode Island, and its activities.* Edited by WILLIAM KIRK, Assistant Professor of Economics in Brown University. (Chicago: The University of Chicago Press. 1909. Pp. ix, 363.)

This is a collection of essays by different authors, aiming "to present the physical characteristics, the racial elements, the commercial and industrial growth, the labor conditions, and the governmental, financial, educational, æsthetic, philanthropic, and religious activities of a typical American city." The volume contains an introduction by President Faunce, and chapters on the following subjects: Geography, by Charles Wilson Brown; Population, by Prof. William Macdonald; Industry, by W. B. Weeden; Labor, by William Kirk; Government, by Prof. J. Q. Dealey; Finance, by Prof. H. B. Gardner; Education by Prof. George Grafton Wilson; Art, by W. C. Poland; Philanthropy, by Mary Conyngton; and Religion, by Lester Bradner. The chapters on government, finance, education, and philanthropy will be of greatest interest to students of municipal government, and these chapters are decidedly the best in the book. Professor Gardner's discussion of finance is particularly valuable. Aside from the four chapters just referred to, the book contains little which is of general interest.

*The American People: A Study in National Psychology.* By A. MAURICE LOW. (Boston and New York: Houghton Mifflin Company. 1909. Pp. 446.)

Mr. Low sets forth and undertakes to prove in this book (which he calls a study in national psychology) the thesis that the American people are a new race, and not a mere amalgamation of various peoples and that they are the product of a "political and sociological" evolu-

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tion. He states that the Puritan is the most important element out of which this race has grown, and devotes the larger part of the book to a discussion of the aforenamed political and religious movement, and treats at lesser length the influence of the "aristocratic oligarchy" of Virginia, the Catholics in Maryland, the Dutch in New York, and the people of the other colonies in more or less detail. Some of Mr. Low's characterizations are very happy, as his statement that "the Puritan was terrifically in earnest; he became self-centered, and was more influenced by that which he had within him than he was by the sense of exterior expression" (p. 189), but he is apt to generalize on insufficient data, as in the case of his estimate of Maryland, where he states that the "coexistence of sects and creeds . . . . differentiated Maryland from Virginia and Massachusetts and brought a new element to form the American character" (p. 287). It seems that Rhode Island might have something to say for herself in this connection.

The present writer thinks that Mr. Low's work is apt to prove of much more value as a stimulus to the thought and interest of the average reader of popular literature than as an authority to be consulted or relied upon by the trained historian or student of political science. It is well adapted to the reading course of a night school, popular lyceum, or woman's club, but will never have a prominent place in the college library or in the more modest collection of the member of a university faculty. Many of his statements are based upon such questionable authority as the works of Elson or Avery, and he gives undue weight to the opinions of John Fiske. He insists at great length and with tiresome reiteration upon the fact that the Pilgrims and Puritans were two distinct groups of Englishmen, a matter that is usually considered to be of very elementary knowledge. In fact it appeared during the past year among the questions upon an entrance examination paper in American history at one of our large universities.

No more fallacious statement could be made and supported by elaborate argument than the one that the Bible was the Puritan *constitution* (see chapter xi). This was true only to a small extent even in the New Haven colony. The *charters* of the other colonies were about as near as the Puritans were able to come to the theoretical idea of a constitution in the usually accepted sense of a body of fundamental principles constituting a form of government, and the Bible was merely the influence that determined the Puritan attitude toward legal and social relations.

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The minor errors of fact are few, the most glaring being the statement that Jefferson entered William and Mary College in 1670 (p. 254). This mistake is evidently from a typographical cause, the proper date being 1760. Also the know-nothing party, founded in 1852, was in existence longer than four years (p. 286 note), as it was a vital force in several states (*vide* Maryland) as late as 1859-60.

In conclusion, the book although well-written and worthy of popular interest is hardly calculated to excite the attention of the more serious student.

WILLIAM STARR MYERS.

*Chinese Immigration.* By MARY ROBERTS COOLIDGE. (New York: Henry Holt and Company. 1909. Pp. 531.)

This volume is a vigorous, not to say vehement, presentation of the case against the established policy of the United States, to exclude the Chinese from permanent settlement. In so far as the book brings together in convenient form references to, and abstracts of, the debates in congress, on the stump and in the newspapers, and an outline of some of the most striking incidents connected with Chinese immigration, it has value. But it is far from being an authoritative treatment of the subject.

In the first place the tone of the book is not at all judicial. The generous fervor of the author often lures her into decided lapses from good taste, as for instance on p. 84, where an ironical "Honorable" is prefixed to the name of Creed Haymond. Surely the father of the code system of California, whatever one may think of his political wisdom, deserves more serious mention. A peculiar obsession of the author leads her to ascribe all the wrongs done to the Chinese to the evil practices of "other foreigners," and more specifically the Irish. It is quite true that Dennis Kearney, and some other leaders of the mob, both on the street and in legislature halls, were of Irish birth or descent. But does the author really believe, as she implies on p. 58 and elsewhere, that the Germans, the most numerous foreign element next to the Irish, followed the leadership of the "chivalry faction" of the democrats? As a matter of fact the Germans, in all parts of the country, even the South itself, were strongly opposed to slavery, and nowhere allied themselves with the southern wing of the democracy.

As to the nationality of the mobs which have occasionally outraged

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Chinamen, just as they have sometimes outraged Irishmen, or negroes, or "scabs," it is safe to say that the Irish and other foreigners were well represented in these lawless gatherings. Riots are usually committed by the poorer and less educated members of a community, and of course many immigrants are poor and meagerly educated. But the turbulence which has so often manifested itself in the West is not principally due to foreigners. These are merely following the example of native Americans belonging to the class the author calls the "Pikers," using a slang term well known on the coast. This is an element analogous to the "poor whites" of the Southern States. It is largely recruited from the unsuccessful residue of the old frontiersmen and their descendents. Densely ignorant, far more so than the majority of foreign immigrants; averse to sustained industry, although, like the savages, capable of strenuous spurts of energy; unprogressive; lawless through ignorance rather than viciousness, these people constitute a well-known element throughout the West. To such men must be ascribed most of the actual ill-treatment of Chinamen, just as it is their congeners in the South who ill-treat the negroes.

Mrs. Coolidge makes much of the ignorance displayed in the ordinary anti-Chinese argument, such as it used to be made in the days of the sand-lot haranguers, and is still heard occasionally. She holds up to scorn the popular misconceptions about the prevalence of peonage among the Chinese laborers, the amount of vice and crime in their ranks, and the excessively low standard of living. All this is well enough, but unfortunately she too often merely meets assertion by counter-assertion. If she had enlightened the reader in some detail on such matters as the true nature and function of the tong, the extent of the jurisdiction assumed by the Six Companies; the high-binder exploits, and similar matters, she would have gained more ready belief in the innocence or comparative harmlessness of these somewhat mysterious institutions. Is it quite true that the arbitration courts maintained by the Six Companies never become in practice criminal tribunals? Are the tongs mere labor unions, and the hatchet men nothing but ordinary criminals? Then why is it necessary to summon the consul-general and the most influential men in the colony to make peace when ever two tongs fall out and the hatchet men appear on the scene? These and similar questions one would like to see treated far more thoroughly.

Mrs. Coolidge shows a tendency to slur over the facts, whenever she touches upon the seamy side of Chinese life in this country. Thus she

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is quite right in denouncing the excessive zeal with which minor immigration officials have enforced the exclusion rules. But why should the extenuating circumstances not be stated clearly, and in detail, that it is often very difficult to discriminate between an ordinary laborer and a person claiming to be a merchant because he owns a small share in some cooperative or rather communistic organization? Such a person may be a merchant according to Chinese usage, but not according to American understanding of the term.

This suggests the true reason on which the exclusion of the Chinese can be justified—a justification which will not be overcome by vague declamations about the universal brotherhood of man, nor about the particular excellence of the Chinese brother. We may grant that the Chinese have attained as high a civilization as ourselves, that they are as moral, as intelligent as we are. Still, though they may be equal to us, they are not alike. Their conceptions of the family, the state, the relation of both to economic affairs, the quality of their emotional life, their inmost beliefs regarding life and death and the ultimate destiny of mankind, are fundamentally different from ours. It is conceivable that the Chinese, if they were allowed to settle in this country in large numbers, would in the course of a generation or two become superficially Americanized. They would speak English, cut off their queues and wear American clothes. But they could not change in many centuries their fundamental attitude toward life, inherited from more than a hundred generations. If they took part in politics, it would be from the standpoint of the clan, the village community, and the communistically organized family. They might be converted to Christianity, but it would be a new form of Oriental religion, not Christianity as we know it. Briefly, though naturalized and firmly established in the country, they would remain an alien community, having none but outward relations with their white fellow-citizens. This is the radical difference between Chinese immigrants and those from any European country—including even the elements most diverse from the original Germano-Celtic stock, such as the Russian Hebrews and the Southern Slavs. All these have fundamentally the same inherited instincts, conceptions and traditions, the same emotional nature, the same underlying philosophy of life. The instincts of the American people have recognized this difference between them and Eastern Asiatics, even if some very learned persons have not. It is not the first time in history that the unlearned were wiser than their teachers.

The author, as would be expected in any pro-Chinese argument,

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makes much of the economic loss which the Pacific Coast states have suffered from refusal to avail themselves of the cheap and abundant labor they could obtain in China. The economic gain would cost too high a price if it involved the introduction of a large and permanently alien element into our national life. But as a matter of fact, the gain would be such only from the standpoint of capitalistic exploitation. If the scarcity of labor, as is now becoming probable, shall help to break up the large agricultural holdings which have been the curse of California, it certainly will prove a blessing.

The tables accompanying the text have been rather carelessly prepared. In several of them there are confusing errors in the figures; it is not apparent why the percentages are left out in many places on p. 503; and the type on p. 504 must have been set by the youngest apprentice.

ERNEST BRUNCKEN.

*The Conflict over Judicial Powers in the United States to 1870.* By CHARLES GROVE HAINES. Columbia University Studies in History, Economics and Public Law. (New York: Longmans, Green and Company. 1909. Pp. 180.)

The author of this monograph aims to give a history of the struggle for supremacy of the federal judiciary on the one hand and the federal or state executive or legislature on the other. He carries the subject down to 1870, which is well chosen as marking the division between the old period of slavery and states rights and the new period of industrial development. The discussion includes as its most important topic an account of the development of the theory and practice of the federal courts in the determination of the constitutionality of federal and state laws.

Beginning with the English theory of legislative supremacy the work first discusses the causes operating toward the dominance of the judiciary in America. While the constitution was silent upon this question yet the general opinion seems to have been favorable to the right of the courts to set aside the act of the legislature if contrary to the constitution. This opinion and the recognition of such a judicial power by the twenty-fifth section of the judiciary act of 1789 foreshadowed the decision in Marbury against Madison.

Following the establishment by this case of the theory of judicial supremacy the book outlines the extension of the power of the federal

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courts under Marshall, with occasional resistance by the federal executive or the states; the restrictive period of the Chief-Justiceship of Taney up to the Dred Scott decision; and the period of conflict resulting from the acute stages of the slavery question, the civil war and reconstruction. It thus forms a basis for a further consideration of the great development of judicial power since 1870.

The treatment is historical throughout. Statements of the attitude of the various parties to the controversy at its different stages are given impartially, decision of the courts are analyzed without bias, with the evident intention of avoiding any discussion as to the merits of the American doctrine of judicial power. So successful has the author been in this that his own opinion upon this question does not appear at any point.

While the work is a careful bringing together and analysis of the more important data on the subject rather than a discovery of new materials or an advancing of new theories, yet it is not only thoroughly well done but it is also well worth doing. It more than fulfills the modest promise in the preface where it is characterized as "a preliminary essay." Whether it be followed by a more complete discussion of the period now covered, or a treatment of the important development of federal judicial power since 1870, the sequel will be awaited with interest.

JOHN B. SANBORN.

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# INDEX TO RECENT LITERATURE—BOOKS AND PERIODICALS

## ADMINISTRATIVE LAW

### *Books*

*Allix, Edgard.* Traite élémentaire de science des finances et de législation financière françaises. 2d ed. Paris: A. Rousseau. Pp. ix, 743.

*Foignet, René.* Manuel élémentaire de droit administratif. 8th ed. Paris: Arthur Rousseau. Pp. 510, xxxvi.

*Fuld, Leonhard Felix.* Police administration: A critical study of police organizations in the United States and abroad. New York: G. P. Putnam's Sons.

*Gascon y Marin. J.* La réforme du régime local en Espagne. Paris: Giard et Brière.

*Geyser, Arth.* Der Polizeidienst. Ein Hilfs- und Nachschlagebuch für preussischen Polizeibeamte. Berlin. Pp. ix, 304.

*Jászi, V.* A magyar közigazgatási jog alapvonalai. (Hungarian administrative law.) Debreszen: Hegedus. Pp. vii, 451.

*Markus Desider.* Ungarisches Verwaltungsrecht. Tübingen: J. C. B. Mohr. (Das oeffentliches Recht der Gegenwart.)

*Molliet, Prosper.* Le Pouvoir Hiérarchique. Paris: Giard et Brière. Pp. 363.

*Morgenstjerne, Bredo.* Laerebog i den norske statforfatningsret. New ed. Kristiania: Steenske Forlag. Pp. xvi, 732.

*Preston-Thomas, Herbert.* The work and play of a government inspector. London.

*Stier-Somlo.* Zur Reform der preussischen Staatsverwaltung. Berlin: Vahlen. Pp. 71.

### *Articles in Periodicals*

**Administrative Courts.** The Necessity for a Court of Appeals in Administrative Matters arising before the Departments of the Federal Government. *C. S. Walton.* Yale L. Jr. Dec.

**Administrative Jurisprudence.** Notes de Jurisprudence: I. Jurisprudence Administrative. *G. Jeze.* Rev. du Droit Pub. et Sci. Pol. July-Aug.-Sept.

**Sanitary Police.** La police sanitaire et la prophylaxie internationale. *A. Rousellier.* An. de. Sci. Pol. Nov. 15.

## COLONIES

### *Books*

*Allard, F.* De la Réforme du Conseil Supérieur des Colonies. Paris: Arthur Rousseau. Pp. 101.

*Barker J. Ellis.* Great and Greater Britain. The problems of motherland and empire. London: Smith, Elder. Pp. 380.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Cayla, Léon.* Des Offices de Renseignements coloniaux. Paris: Marcel Rivière. 1908. Pp. iv, 201.

Congo Reforms. By a Belgian minister. Translated by J. de C. Macdonnell. London: Rivers. Pp. 91.

*Costigliole, Guy Crotti de.* Les Représentants des Colonies au Parlement. Paris: Ch. Noblet. 1908. Pp. 119.

*Doan-Vinh-Thuan.* La France d'Asie et son avenir. Étude historique et économique. Paris: A. Challamel. Pp. 78.

*Doyle, A. Conan.* The crime of the Congo. London: Hutchinson.

*Eutrope, E.* La Régime politique des Colonies anglaise à Self-Government. Paris: L. Larose et L. Tenin. 1908. Pp. 160.

*Gould, S. Baring* and *Bampfylde, C. A.* A history of Sarawak under its two white Rajahs, 1837-1908. London: Sotheran. Pp. 488.

*Guizonnier, Maurice.* L'Inde Anglaise et le Swadeshisme. Montpelier: Gustave Firmin. Pp. 159.

*Hüssen, Fritz.* Die Verfassungsentwicklung Transvaals zur "Self-governing colony." Karlsruhe: Braun. Pp. xi, 146. (Freiburger Abhandlungen aus dem Gebiete des öffentlichen Rechts.)

*Jose, Arthur W.* The growth of the empire. A handbook to the history of Greater Britain. Revised. London: Murray. Pp. 460.

*Maxwell, Sir Herbert Eustace.* A century of empire, 1801-1900. Vol. I. 1801-1832. London: Longmans. Pp. 17, 352.

*Morel, E. D.* Great Britain and the Congo. The pillage of the Congo basin. London: Smith, Elder. Pp. xxvi, 291.

*Nicholson, J. Shield.* A project of empire. A critical study of the economics of imperialism, with special reference to the ideas of Adam Smith. London.

*Phillips, Marion.* A colonial autocracy. New South Wales under Governor Macquarie, 1810-1821. London: P. S. King. Pp. 360.

*Prager, Erich.* Die deutsche Kolonialgesellschaft, 1882-1907. Berlin: Reimer, 1908. Pp. 231.

*Weber, Frdr.* Die koloniale Finanzverwaltung. Münster. Pp. xv, 392. Kolonialrechtliche Abhandlungen.)

*Articles in Periodicals*

**Africa.** L'Angleterre en Afrique. Capitaine E. de Renty. Ques. Dip. et Col. Oct. 1.

**Anticosti.** Colonisation de l'ile d'Anticosti. *Maurice Dewavrin.* Ques. dipl. et Col. Dec. 1.

## CONSTITUTIONAL LAW

*Books*

*Alston, Leonard.* Modern constitutions in outlines. Revised edition. London: Longmans. Pp. 88.

*Bahn. E.* Das Verhaltniswahlsystem in den modernen Kulturstaaten. Berlin: Haering. Pp. xii, 365.

*Bleys, Etienne.* Les Garanties de la Liberté Individuelle en Angleterre. Imprimerie Toulousaine. Pp. 205.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

*Bornhak, Conrad.* Grundriss des deutschen Staatsrechts. 2d ed. Leipzig: Deichert. Pp. vii, 263.

*Brand, R. H.* The union of South Africa. Clarendon Press. Pp. 192.

*Breton, J. L.* Contre la proportionnelle. Paris: Cornély.

*Charau, Henri.* Essai sur l'évolution du systéme représentatif. Dijon: Darantière. Pp. 82.

*Chasles, Pierre.* Le parlement russe. Son organisation. Ses rapports avec l'empereur. Paris: A. Rousseau. Pp. 222.

*Dareste, F. R.* et *L.* Les constitutions modernes. Recueil des constitutions en vigueur dans les divers états du monde. 3d edition. Paris. 2 vols.

*Eyschen, P.* Das öffentliche Recht des Grossherzogtums Luxemburg. Tübingen: J. C. B. Mohr. (Das öffentliche Recht der Gegenwart.)

*Fontaine, Jean.* La Représentation Proportionnelle en Wurtemberg. Paris: Larose et Tenin. Pp. 219.

*Galland, J. J.* La démocratie tessinoise et la représentation proportionnelle. Paris: A. Rousseau.

*Gmeiner, Aug.* Grundzüge der Verfassung Ungarns. Hermannstadt: Krafft. Pp. xii, 183.

*Gozzi, Louis.* L'Interpellation à L'Assemblée Nationale. Marseille: Imprimerie Nouvelle. Pp. 166.

*Herrnritt. Rudolf.* Handbuch des österreichischen Verfassungsrechtes. Tübingen: J. C. B. Mohr. Pp. xvi, 276.

*Hesse, Raymond.* La Séparation des Églises et de l'État et le droit répressif. Paris: Larose et Tenin. 1908. Pp. 228.

*Jamin, Guy.* Des Hautes Cours de Justice sous la Révolution. Paris: Henri Jouve. 1908. Pp. 187.

*Kaatzer, Hermann.* Die rechtliche Stellung des Prinzgemahls der Niederlande. Aachen: Cremer. Pp. viii, 53.

*Lebon, André.* Das Verfassungsrecht der französischen Republik. Tübingen: J. C. B. Mohr. Pp. vii, 205. (Das öffentliche Recht der Gegenwart.)

*Leonardi, Ch.* Le Conseil d'État sous la Restauration. Paris: Giard et Brière. Pp. 261.

*Lowell, A. Lawrence.* Le gouvernement de l'Angleterre. Vol. I. Paris: Giard et Brière. Pp. viii, 698.

*Marczoll,* H. Ungarisches Verfassungsrecht. Tübingen: J. C. B. Mohr. (Das öffentliche Recht der Gegenwart.)

*Margolius. H.* Wahre Konstitution. Der Weg zum Frieden der Voelker. Prag: Bellmann. Pp. v, 292.

*Maugard, P.* Des Conditions censitaires et intellectuelles de l'électorat politique dans le droit constitutionnel contemporain. Paris: Giard et Brière. Pp. 118.

*May, Thomas Erskine.* Traite des lois, privilèges, procedures et usages du Parlement. Vol. I. Paris: Giard et Brière. Pp. xlii, 408.

*Meyerholz, Ch.* Zwei Beiträge zur Verfassungsgeschichte der Vereinigten Staaten. Leipzig: Voigtlander. 1908. Pp. vii, 246.

*Montbel, G. de.* La Condition Politique de la Croatie-Slavonie dans la Monarchie Austro-Hongroise. Toulouse: Lagarde et Sebille. Pp. 314.

LICENSED TO UNZ.ORG
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*Nadal, Jean-Baptiste.* Attributions du président de la République en France et aux Etats-Unis. Toulouse: Marques. Pp. 144.

*Neisser, Karl* und *Otto.* Die Geschäftsordnung des Abgeordnetenhauses des Reichsrates. Vienna: Braumüller. 2 vols.

*Nerincx, Alfred.* L'Organisation judiciaire aux États-Unis. Paris: Giard et Briere. Pp. xi, 427.

*Peltékoff, Petre P.* Le Droit de Suffrage politique. Etude des Principes et des Réformes proposées. Imprimerie Toulousaine. Pp. 252.

*Perceau, Henri.* Le Sénat sous le Second Empire. Paris: Henri Jouve. Pp. 284.

*Rauchhaupt, Fr. W. von.* Verfassungsaenderungen nach deutschem Landes-Staatsrecht insbesondere in Pressen. Breslau: Marcus. 1908. Pp. viii, 114.

*Sainz, François.* Le Scrutin de Liste Envisagé: (*a*) Dans le système majoritaire. (*b*) Dans le systéme de la répresentation proportionnelle. Paris: Giard et Brière. Pp. 67.

*Schleip, J.* Das Petitionsrecht des bayrischen Landtags. Münich: Schweitzer. Pp. iv, 121.

*Schlesinger, Erich.* Staats und Verwaltungsrecht des Grossherzogtums Mecklenburg-Schwerin. Berlin: Süsserott. Pp. xiv, 442.

*Sussman, St.* Das Budget-Privilege des Hauses der Germeinen. Eine Studie aus der engl. Verfassungsgeschichte. Mannheim: Bensheimer. Pp. ix, 216.

*Teixeira de Mattos, Vittore.* Accusa parlamentare et responsibilità ministeriale. Milan: F. Vallardi. Pp. xi, 910.

*Tezner, Friedrich.* Oesterreichisches Staatsrecht in Einzeldarstellungen. I. Bd. Der Kaiser. Vienna: Manz.

*Vigne, Alphonse.* Ministres et Assemblées Délibérantes, leurs Rapports de 1789 à 1830 au Point de Vue de l'Origine du Droit de Question et du Droit d'Interpellation en France. Aix-en-Provence: Pourcel. Pp. 134.

*Wilson, Woodrow.* The State, with revision of the sections on Norway and Sweden. New York: D. C. Heath.

*Articles in Periodicals*

**Alsace-Lorraine.** L'Administration en Alsace-Lorraine. *Paul Gerber.* Rev. du droit pub. Oct.-Nov.-Dec.

**Carriers, Regulation of.** The Power of Congress and of the States Respectively, to Regulate the Conduct and Liability of Carriers. *F. H. Cooke.* Col. L. Rev. Jan.

**Commerce Clause.** The Supreme Court, the Commerce Clause, and Common Law Rules. *F. H. Cooke.* Yale L. Jr. Nov.

**Commerce Regulation of.** The Exclusiveness of the Power of Congress to Regulate Commerce. *F. H. Cooke.* Am. L. Rev. Nov.-Dec.

**Commodities Clause.** The Commodities clauses. *Edward L. Andrews.* Columbia Law Rev. Dec.

**Contract.** Impairment of the Obligation of Contract by State Judicial Decisions. *W. F. Dodd.* Ill. L. Rev. Dec.

**Corporation Tax.** Constitutionality of the United States Corporation Tax. *F. G. Goodnow.* Columbia L. Rev. Dec.

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**Corporation Tax.** The Constitutionality of the Federal Corporation Tax. *R. W. Aigler.* Mich. L. Rev. Jan.

**Corporation Tax.** The United States Corporation Tax Act of 1909. H. V. Poor. Green Bag. Dec.

**Delegation of Federal Jnrisdiction.** The Delegation of Federal Jurisdiction to State Courts by Congress. *J. D. Barnett.* Am. L. Rev. Nov.-Dec.

**Due Process.** The Due Process Clauses and "The Substance of Individual Rights." *R. P. Reeder.* Pa. L. Rev. and Am. L. Rev. Jan.

**English Budget.** Le budget et la situation politique en Angleterre. *A. Kann.* Ques. Dip. et Col. Nov. 16.

**English Budget.** Le crise anglaise. *Paul Villars.* Ques. dipl. et Col. Jan. 1.

**Fifteenth Amendment.** Is the Fifteenth Amendment Void? A. W. Machen, Jr. Harv. L. Rev. Jan.

**Interstate Commerce Commission.** The Force and Effect of the Orders of the Interstate Commerce Commission. *H. T. Newcomb.* Harv. L. Rev. Nov.

**Jury Trial.** Trial by Jury in Illinois. *E. L. Masters.* Ill. L. Rev. Jan.

**Labor law.** The Illinois Ten-Hour Labor Law for Women. *A. A. Bruce.* Mich. L. Rev. Nov.

**Primaries.** The Last Illionis Primary Law Decision. *L. M. Greeley.* Ill. L. Rev. Nov.

**Reichstag.** Le rentrée de Reichstag. *A. Marvaud.* Ques. Dip. et Col. Nov. 16.

**South Africa.** L'Union Sud-Africaine. Capitaine *E. de Renty.* Ques. Dip. et Col. Nov. 16, Dec. 1.

**Taxation and Commerce Clause.** The Commerce Clause and Taxation of Gross Receipts and of "Intangible Property." *F. H. Cooke.* Mich. L. Rev. Nov.

**Taxing Power, Limitations Upon.** De l'independance des pouvoirs publics dans la determination des sources de recettes. *G. Jeze.* Rev. du Droit Pub. et Sci. Pol. July-Aug.-Sept.

## INTERNATIONAL LAW AND DIPLOMACY

### *Books*

*Anis, Louis.* Du Droit de Déclarer la Guerre. Saumer: Godet. Pp. vii, 255.

*Baty, Thomas.* International Law. London: Murray. Pp. 374.

*Baudin, Pierre.* La politique realiste à l'extérieur. Paris: Fasquelle.

*Beaucourt, Albert.* Les Commissions Internationales d'Enquête. Arras: Répessé, Cassel et Cie. Pp. 271.

*Becker, J.* Relaciones entre España y la Santa Sede durante el siglo xix. Madrid: Martin. Pp. 487.

*Bon, Louis.* La Guerre Russo-Japonaise et la Neutralité. Montpelier: "L'-Abeille" Imprimerie Coöpérative Ouvrière. Pp. 256.

*Chadwick, F. E.* The Relations of the United States with Spain. New York: Scribner.

*Descamps* et *Renault.* Recueil international des traités du xx$^{e}$ siècle. Année 1903. Paris: A. Rousseau. Pp. 1016.

*Diplomatist, A.* American foreign policy. Boston: Houghton, Mifflin.

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ELECTRONIC REPRODUCTION PROHIBITED

*Dubois, Georges.* Des Charges de la Paix Armée et de la Limitation des Armements. Caen: E. Lanier. Pp. 135.

*Foster, John W.* Diplomatic memoirs. Boston: Houghton, Mifflin. 2 vols.

*Fried, A. H.* Der Kranke Krieg. Leipzig: Kröner. Pp. 176.

*Fried, Alfred H.* Les bases du pacificisme. Le pacificisme réformiste et le pacificisme révolutionnaire. Traduction de l'allemand. Paris: A. Pedone. Pp. 80.

*Gasselin, Louis.* La Question du Schleswig-Holstein. Contribution à la théorie de l'annexion. Paris: Arthur Rousseau. Pp. viii, 212.

*Hansen, C.* De forende Staters politik. (Die politik der Vereiningten Staaten von Nordamerika.) Tilskueren. 1908. Pp. 539.

*Henry, Louis.* Les Capitulations de Places Fortes. Paris: Arthur Rousseau. Pp. 111.

*Hertslet.* Map of Africa by treaty. 3d ed. Published by authority. London: 3 vols.

*Hervé, Gustave.* L'Internationalisme. Paris: Giard et Brière. Pp. viii, 179.

*Higgins, A. Pearce.* The Hague peace conferences and other international conferences, concerning laws and usages of war. Text of conventions, with commentaries. Cambridge: University Press. Pp. 646.

*Holland, Thomas Erskine.* Letters to *The Times* upon war and neutrality, 1881–1909, with some commentary. London: Longmans. Pp. 11, 166.

*Kehr, Erich* Die Verwundeten und Kranken des Landeskrieges in Feindeshand. Leipzig: Fock. Pp. vii, 163.

*Lawrence, T. J.* Principles of international law. New ed. New York: D. C. Heath.

*Lawrence, T. J.* A handbook of public international law. 7th ed. Macmillan. Pp. 206.

*Lémonon, Ernest.* L'Europe et la politique brittanique 1882–1909. Paris: Fèlix Alcan. Pp. 555.

*Manche, Émile-Lucien.* La Déclaration de Guerre et ses Conséquences immédiates. Lille: G. Sautai. Pp. 214.

*Martin, Xavier.* Étude sur le blocus maritime. Paris: Giard et Brière. Pp. 217.

*Medecin, Paul.* Étude sur l'Admission des Étrangers en France. Paris: L. Larose et L. Tenin. Pp. xi, 304.

*Meyer, Alex.* Die Luftshiffahrt in kriegsrechtlicher Beleuchtung. Frankfurt a/M.: Knauer. Pp. 60.

*Péméant, Georges.* L'Egypte et la Politique Française. Paris: Giard et Brière. Pp. 221.

*Phillipson, C.* The Effect of War on Contracts and on Trading Associations in Territories of Belligerents. London: Stevens and Haynes, 114 pp.

*Picchio, Car.* La navigazione interna nel diritto pubblico e privato. Alessandria. Pp. 127.

*Rouard de Card. E.* Traités de délimitation concernant l'Afrique française. Paris: A. Pedone. Pp. xii, 198.

*Schücking, Walth.* Die Organisation der Welt. Leipzig: Kröner. Pp. 84.

*Staudacher, Hermann.* Die Friedensblockade. Leipzig: Duncker und Humblot. Pp. xvi, 166. (Staats- und Völkerrechtliches Abhandlungen.)

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*Stengel, Karl von.* Weltstaat und Friedensproblem. Berlin: Reichel. Pp. xiii, 145.

*Wehberg, Hans.* Das Beuterecht im Land- und Seekriege. Tübingen: J. C. B. Mohr. Pp. xii, 135 (Abhandlungen aus dem Staats, Verwaltungs- und Völkerrecht.)

*Articles in Periodicals*

**Arbitration.** La paix perpetuelle et l'arbitrage international. *L. Le Fur.* Rev. Gen. de Droit Int. Pub. July-Aug.

**Arctic Exploration.** Arctic Exploration and International Law. *J. B. Scott.* Am. Jr. Int. Law. Oct.

**Austria.** La répercussion de la victorie autrichienne sur les États danubiens et balkaniques. *J. Dorobantz.* Ques. Dip. et Col. Nov. 1.

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**International Law.** La science du droit international. Horizons nouveaux. *L. Fiore.* Rev. Gen. de Droit Int. Pub.

**Japan, Diplomacy.** Pages de l'historie diplomatique du Japon *K. Kijima.* Rev. de droit Int. et Leg. Comp. No. 5, 6.

**Japanese.** The Japanese Problem in California. *S. G. P. Coryn.* Annals of the American Academy of Political and Social Science. Sept.

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**Treaties.** The Treaty Power: Protection of Treaty Rights by Federal Government. *W. D. Lewis.* Annals of the American Academy of Political and Social Science. Sept.

**Treaty Power.** The Treaty Power and its Relation to State Laws. W. C. Coleman. Am. L. Rev. Sept.-Oct.

**United States.** The Contributions of American Judges of International Law. *C. N. Gregory.* Zeitschrift für Völkerrecht und Bundesstaatsrecht. Vol. 4, pt. 1.

**United States.** Les Etats-Unis et le droit des gens. Cinquième article. *E. Nys.* Rev. de Droit Int. et Leg Comp. No. 5, 6.

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*Bedwell, C. E. A.* Editor. The Legislation of the Empire, being a Survey of the Legislative Enactments of the British Dominions from 1898 to 1907. London: Butterworth. 4 vols.

*Burle, E.* Essai historique sur le developpement de la notion du droit naturel dans l'antiquité grecque. Trèvoux: Jeannin. Pp. xv, 632.

*Catherin, Vict.* Recht, Naturrecht und positives Recht, 2 ed. Freiburg: Herder. Pp. vii, 327.

Jahrbuch der internationalen Vereinigung für vergleichende Rechtswissenschaft und Volkswirtschaftslehre zu Berlin. viii. Bd. 2. Abblg. iii Tl. Berlin: Springer.

*Kohler, Josef* und *Ungnad, U.* Hammurabi's Gesetz., ii. Bd. 2. Abblg. und iii Bd. Leipzig: Pfeiffer.

*Lelong, Jean.* La Vie et les Oeuvres de Loyseau (1564–1627) Paris: F. Pichon et et Durand-Auzias. Pp. viii, 321.

*Michaud, Léon.* La théorie de la personalité morale et son application au droit français. Vol. ii. Paris: Pichon. Pp. 549.

*Pattee, William S.* The Essential Nature of Law. Chicago: Callaghan.

*Posener, Paul.* Rechtslexikon. Handwörterbuch der Rechts- und Staatswissenschaften. Berlin: Weber. 2 vols.

*Wellman, Francis L.* The Day in Court, or the Modern Jury Lawyer. New York: Macmillan.

### *Articles in Periodicals*

**Bentham.** A Modern View of the Law Reforms of Jeremy Bentham. *F. N. Judson.* Col. L. Rev. Jan.

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**Jurisprudence.** Review of Current Theories of Jurisprudence. *G. H. Smith.* Am. L. Rev. Nov.-Dec.

**Juvenile Offenders.** The Judicial Treatment of Juvenile Offenders. *H. H. Brown.* Law Mag. and Rev. Nov.

**Procedural Reform.** Some Principles of Procedural Reform. *R. Pound.* Ill. L. Rev. Jan.

**Wales.** Welsh Mediaeval Law. Law Mag. and Rev. Nov.

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*Books*

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*Cadoux, G.* La politique financière du conseil municipal de Paris. Paris: Giard et Brière.

*Carré, A.* Le Budget de Paris depuis 1870. Paris: A. Michalon. Pp. 195.

*Kampffmeyer, H.* Die Gartenstadtbewegung. Leipzig. Pp. vi, 116.

*Kirk, William.* Editor. A Modern City: Providence, Rhode Island and its Activities. Chicago: University of Chicago Press. Pp. 9, 363.

*Lichtenberg, R. F. von.* Haus, Dorf, Stadt. Eine Entwicklungs-Geschichte des antiken Städtebildes. Leipzig: Haupt. Pp. ix, 280.

*Lloyd, J. Seymour.* Municipal Elections and How to Fight Them. New edition. London: Vacher. Pp. 159.

*Maitre, Emile.* Organisation Municipale de Paris. Paris: Jules Rousset. Pp. 312.

*Michels-Lindner, Gisela.* Die Geschichte der modernen Gemeindebetriebe in Italien. Leipzig: Duncker und Humblot. (Schriften des Vereins für Socialpolitik.)

*Weigel, Paul.* Die Gemeindebetriebe der Stadt Leipzig. Leipzig: Duncker und Humblot. (Schriften des Vereins für Socialpolitik.)

## POLITICAL SCIENCE (GENERAL) AND POLITICAL THEORY

*Books*

*Carlyle, R. W.* and *A. J.* A History of Mediæval Political Theory in the West. Vol. II. The political theory of the Roman lawyers and Canonists in the Middle Ages up to 1250. New York: G. P. Putnam's Sons. Pp. 294.

*Gelineaud, Leonin.* Les Doctrines Sociales et Politiques de Mably. Rochefort: Colbert. Pp. 136.

*Hobbes, Thomas.* Hobbe's Leviathan; reprinted from the edition of 1651, with an essay by the late W. S. Pogson Smith. Oxford University Press. Pp, 31, 557.

*Klein, G. B.* La teoria dei tre poteri nel diritto costituzionale del Nord-America. Vol. I (parte generale). Florence: A. Rossini. Pp. xvi, 480.

*Reverdy, Antony.* Morelly. Idées philosophiques, economiques et poiltiques. Poitiers: Bousrez. Pp. 106.

## MISCELLANEOUS

*Books*

*Abbott, G. F.* Turkey in transition. London: Arnold. Pp. 378.

*Abbott, G. F.* Editor. Greece in Evolution. London: T. Fisher Unwin. Pp. 316.

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*Alexander, D. S.* A Political History of the State of New York. Vol. 3. New Yorl: Henry Holt. Pp. 4, 561.

*Beard, Charles A.* Readings in American government and politics. New York: Macmillan. Pp. 24, 624.

*Becker, Carl L.* History of Political Parties in the Province of New York. 1760-1776. Madison, Wis.: University of Wisconsin. Pp. 319.

*Botsford, George W.* The Roman Assemblies, from their origin to the end of the Republic. New York: Macmillan. Pp. 10, 521.

*Bryce, James.* Hindrances to Good Citizenship. New Haven: Yale University Press. Pp. 138.

*Caro, Leopold.* Auswanderung und Auswanderungspolitik in Oesterreich. Leipzig: Duncker und Humblot. (Schriften des Vereins fur Socialpolitik.)

*Coolidge. Mary R.* Chinese Immigration. New York: Henry Holt.

*Croly, Herbert.* The Promise of American Life. New York: Macmillan. Pp. viii, 468.

*Dawbarn, C. Y. C.* Liberty and Progress. London: Longmans. Pp. 354.

*Duruy, V.* Autriche et Italie. Paris: Chapelot.

*Dyer, Henry.* Japan in World Politics. A study in international dynamics. London: Blackie. Pp. xiii, 425.

*Farkas, Paul.* Staatsstreich und Gegenrevolution in der Turkei. Berlin: Puttkammer und Muhlbrecht. Pp. 110.

*Franceschini, Ant.* L'Emigrazione italiana nell'America del Sud. Studi sulla espansione coloniale transatlantica. Rome: Forzani. 1908. Pp. 1134.

*Georgewitch,* V. Die turkische Revolution und ihre Aussichten. Leipzig: Hirzel. Pp. 102.

*Hart, Albert Bushnell.* The Southern South. New York: Appleton.

*Hobson, John A.* The Crisis of Liberalism: New Issues of Demoracy. London: P. S. King. Pp. 280.

*Howe, Frederic C.* Privilege and democracy in America. New York: Scribner.

*Imbert, P.* La renovation de l'Empire Ottoman. Paris: Perrin.

*International Opium Commission.* Complete official report of proceedings and reports of delegations. London: P. S. King. 2 vols.

*Jaray, Gabriel Louis.* La Question Sociale et le Socialisme en Hongrie. Paris: Félix Alcan. Pp. 423.

*Low, A. Maurice.* The American People: A Study in National Psychology. Boston: Houghton, Mifflin. Pp. 8, 446.

*Mathews, Lois Kimball.* The Expansion of New England; the Spread of New England Settlement and Institutions to the Missippippi River. 1620-1865. Boston: Houghton, Mifflin. Pp. 14, 303.

*Ostrogorski, M.* Democracy and the Organization of Political Parties. Abridged edition. New York: Macmillan.

*Perege, L.* La saparazione della chiesa dello Stato e la riforma laica in Francia. Verona: Cabianca. Pp. viii, 278.

*Périssé, P.* Les Élections Législatives en Espagne. Toulouse: Imprimerie du "Rapide." Pp. 172.

*Peron, F.* La Legislation de l'Enseignement Primaire et Secondaire en Angleterre. Paris: Henri Jouve. 1908. Pp. 386.

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*Salvy, Charles.* L'Immigration aux États-Unis et les Lois Fédérales. Paris: Larose et Tenin. 1908. Pp. 216.

*Schofield, Guy H.* New Zealand in evolution: Industrial, Economic, and Political. London: T. Fisher Unwin. Pp. 388.

*Sienkiewicz, H.* Prusse et Pologne. Paris: Agence polonaise.

*Sumner, Helen L.* Equal suffrage; the results of an investigation in Colorado. New York: Harper. Pp. 36, 282.

*Tolstoi, Count J.* Die Antisemitismus in Russland. Ubersetzt von A. Silberstein. Frankfurt a/M. Kaufmann. Pp. 136.

*Verecque, Ch.* La conquête socialiste du pouvoir politique. Paris: Giard et Briere.

*Verschaave, P.* La Hollande politique. Paris: Perrin.

*Articles in Periodicals*

**Ballot Reform.** The Ballot's Burden. *C. A. Beard.* Pol. Sci. Quar. Dec.

**Belgium.** Léopold II, roi der Belges. *Edouard Payan.* Ques. dipl. et Col. Jan. 1.

**Child Labor.** Child Labor in the South. *A. J. McKelway.* Annals of the American Academy of Political and Social Science. Jan.

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**Courts and Social Justice.** The Courts as Conservators of Social Justice. *S. E. Baldwin.* Col. L. Rev. Nov.

**Debt, Imprisonment for.** Imprisonment for Debt. *Lex.* Law Mag. and Rev. Nov.

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